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U.S. GOVERNMENT
INFORMATION
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Federal Register

6–19–08 Thursday
Vol. 73 No. 119 June 19, 2008

Pages 34843–35058

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Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE280; Special Conditions No. 23–220–SC]

Special Conditions: Embraer S.A., Model EMB–500; High Fuel Temperature

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Embraer S.A., Model EMB–500 airplane. This airplane will have a novel or unusual design feature(s) associated with high fuel temperature. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* June 10, 2008.

FOR FURTHER INFORMATION CONTACT: Peter L. Rouse, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–111, 901 Locust, Kansas City, Missouri, 816–329–4135, fax 816–329–4090.

SUPPLEMENTARY INFORMATION:

Background

On October 5, 2005, Embraer S.A. applied for a type certificate for their new Model EMB–500. The Model EMB–500 is a normal category, low-winged monoplane with ''T'' tailed vertical and horizontal stabilizers, retractable tricycle type landing gear and twin turbofan engines mounted on the aircraft fuselage. Its design characteristics include a predominance of metallic construction. The maximum takeoff weight is 9,965 pounds, the V_{MO}/M_{MO} is 275 KIAS/M 0.70 and maximum altitude is 41,000 feet.

Fuel temperatures on the Embraer EMB 500 are higher than envisioned by 14 CFR part 23. The rule governing fuel system hot weather operation is 14 CFR part 23, § 23.961, and the rule requires the following:

> Each fuel system must be free from vapor lock when using fuel at its critical temperature, with respect to vapor formation, when operating the airplane in all critical operating and environmental conditions for which approval is requested. For turbine fuel, the initial temperature must be 110 °F, −0°, +5° or the maximum outside air temperature for which approval is requested, whichever is more critical.

During other airplane certification projects, the fuel system temperatures associated with the PW600 series turbofan engines were much higher than those previously encountered on other engines. The engine oil/fuel heat fuel system includes an exchanger that cools the oil and heats the fuel. Consequently, the motive flow fuel that is returned to the airplane from the engine is hot and heats the airplane wing fuel and tank. As a result, on the PW615F, the engine inlet maximum fuel temperature was increased from a development value of 126 °F (52 °C) to an initial (Transport Canada) certification value of 172 °F (78 °C) for kerosene type fuels.

Initial concerns regarding the safe operation of the airplane with fuel temperatures significantly greater than 110 °F are identified as:

- Fuel degradation with resultant byproducts at high temperatures
- Operation with the higher vapor liquid ratios
- Fuel system component qualification at the higher temperatures
- Solubility of water in fuel
- Microbial growth
- Fuel tank material/surrounding structure compatibility with the elevated temperatures
- Service and maintenance personnel susceptibility to burns

An initial review of FAA experience regarding airplane fuel temperatures identifies that for large part 25 aircraft, fuel temperature upper limits are characterized by § 25.961 values, i.e. 110–120 °F. Operationally, the buildup of vapor pockets within fuel lines has been an issue from this perspective for large transport category airplanes. A summary of the maximum engine inlet fuel temperatures for engines used in part 23 and part 25 business jet airplanes that are FAA certified follows:

Engine Model	Sea level maximum inlet fuel temperature
PWC615F	126 F (52 C) draft IM
PWC615F	172 F (78 C) Transport Canada
PWC615F	190 F (88 C)
530A, 535A	135 F (57 C)
545A	135 F (57 C)
305A	135 F (57 C)
308	135 F (57 C)
JT15D–4, –4B, –4D	135 F (57 C)
FJ44–3A	200 F (93 C)
FJ44–2A	135 F (57 C)
FJ44–1B	135 F (57 C)
TFE731–2/–3	135 F (57 C)
TFE731–20	135 F (57 C)

CAR part 3, as amended to May 15, 1956, defined the maximum anticipated summer air temperatures in § 3.583; ''The maximum anticipated summer air temperature shall be considered to be 100 °F at sea level and to decrease from this value at the rate of 3.6 °F per thousand feet above sea level.'' Concurrently, § 3.438 required that ''* * * fuel system features conducive to vapor formation shall be demonstrated to be free from vapor lock when using fuel at a temperature of 110 °F under critical operating conditions.'' Building from CAR part 3, 14 CFR part 23 envisioned maximum fuel temperatures at or near 110 °F as set forth in 14 CFR part 23, § 23.961. The turbine fuel temperature requirement for hot weather operation is 110 −0, +5 °F, or the maximum outside air temperature for which approval is requested, whichever is more critical. Engine heat rejection such that the airplane fuel temperature is characterized by engine heat rejection rather than ambient air temperature is a new and novel design that was not envisioned by 14 CFR part 23.

14 CFR part 23 certification experience to date has shown that hot weather certification testing with 110 °F fuel temperatures is adequate for fuel system operations for fuel tank fuel temperatures characterized by ambient air temperatures including cooling as a result of the atmospheric temperature lapse rate. Heating that increases the airplane fuel system operational temperatures introduces several fuel

system concerns. Each must be shown to be acceptable. Compliance by design (i.e. lack of ability to shutoff the engine motive flow) may be utilized although associated type certificate data sheet information may also be necessary to assure future system changes are compliant.

A special condition for the higher fuel system temperatures of the Embraer EMB 500 airplane was proposed. The special condition requires the compliance to 14 CFR part 23, § 23.961, fuel system hot weather operation test temperature to be commensurate with the highest fuel temperature expected at the maximum outside air temperature for which approval is requested.

Type Certification Basis

Under 14 CFR part 21, § 21.17, Embraer S.A. must show that the Model EMB–500 meets the applicable provisions of 14 CFR part 23, as amended by Amendments 23–1 through 23–55, thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 23) do not contain adequate or appropriate safety standards for the Model EMB–500 because of a novel or unusual design feature, special conditions are prescribed under § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model EMB–500 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Special conditions, as appropriate, as defined in § 11.19, are issued under § 11.38, and become part of the type certification basis under § 21.17(a).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under § 21.101(a).

Novel or Unusual Design Features

The Model EMB–500 will incorporate the following novel or unusual design features: High Fuel Temperatures.

Discussion of Comments

Notice of proposed special conditions No. 23–07–05–SC for the Embraer S.A., Model EMB–500 airplanes was published on January 23, 2008 (73 FR 3881). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Model EMB–500. Should Embraer S.A. apply later for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under § 21.101(a).

Conclusion

This action affects only certain novel or unusual design features on one model, Model EMB–500, of airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Embraer S.A. Model EMB–500 airplanes.

1. SC § 23.961

Instead of compliance with § 23.961, the following apply:

Each fuel system must be free from vapor lock when using fuel at its critical temperature, with respect to vapor formation, when operating the airplane in all critical operating and environmental conditions for which approval is requested. For turbine fuel, the initial temperature must be the highest fuel temperature expected at the maximum outside air temperature for which approval is requested.

Issued in Kansas City, Missouri on June 10, 2008.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13830 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0273; Directorate Identifier 2007–NM–369–AD; Amendment 39–15566; AD 2008–13–03]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400, 747–400D, and 747–400F Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) that applies to all Boeing Model 747–400, 747–400D, and 747–400F series airplanes. That AD currently requires reviewing airplane maintenance records, doing repetitive inspections for cracking of the yaw damper actuator portion of the upper and lower rudder power control modules (PCMs), replacing the PCMs if necessary, and reporting all airplane maintenance records review and inspection results to the manufacturer. This new AD limits the applicability, reduces the initial inspection threshold and repetitive interval, removes the reporting requirement, and requires installation of a secondary retention device for the yaw damper modulating piston. Installation of the secondary retention device terminates the repetitive inspection requirements. This AD results from additional reports of failure or cracking of the PCM manifold in the area of the yaw damper cavity endcap at intervals well below the initial inspection threshold of the existing AD. We are issuing this AD to prevent an uncommanded left rudder hardover in the event of cracking in the yaw damper actuator portion of the upper or lower rudder PCMs, and subsequent failure of the PCM manifold, which could result in increased pilot workload, and possible runway departure upon landing.

DATES: This AD becomes effective July 24, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 24, 2008.

On October 13, 2006 (71 FR 52999, September 8, 2006), the Director of the Federal Register approved the incorporation by reference of Boeing Service Bulletin 747–27A2397, Revision 2, dated September 1, 2005.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Douglas Tsuji, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6487; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2006–18–17, amendment 39–14756 (71 FR 52999, September 8, 2006). The existing AD applies to all Boeing Model 747–400, 747–400D, and 747–400F series airplanes. That NPRM was published in the **Federal Register** on March 13, 2008 (73 FR 13480). That NPRM proposed to continue to require reviewing airplane maintenance records, doing repetitive inspections for cracking of the yaw damper actuator portion of the upper and lower rudder power control modules (PCMs), and replacing the PCMs if necessary. That NPRM also proposed to add a requirement to install a secondary retention device for the yaw damper modulating piston, and reduce the applicability. Installation of the secondary retention device would terminate the repetitive inspection requirements.

Comments

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

Support for the NPRM

Boeing, the National Transportation Safety Board (NTSB), and Northwest Airlines (NWA) support, concur with, or have no objection to the contents of the NPRM.

Request To Identify Other Part Numbers (P/Ns) in Parts Installation Paragraph

Parker Hannifin Corporation, the PCM manufacturer, states that PCMs that have P/Ns 332700–1009 and 333200–1009 should have been included in paragraph (l), ''Parts Installation,'' of the NPRM. Parker states that Parker Service Bulletins 332700–27–166 and 333200–27–167 required the upper and lower PCMs to be marked with these part numbers as a configuration change update. Parker states that it will rescind these service bulletins. If these Parker service bulletins are not accomplished, all identification plates will remain marked as P/Ns 332700–1007 and 333200–1007, which are both P/Ns identified in paragraph (l) of the NPRM. However, Parker points out that it is possible some PCMs have already been re-identified with the–1009 P/Ns. Without including the–1009 P/Ns in paragraph (l) of this AD, these parts would not be inspected and modified in accordance with the AD. Therefore, Parker requests that we change paragraph (l) of this AD to include these additional P/Ns.

We agree with Parker that it is important to ensure that P/Ns 332700–1009 and 333200–1009 are inspected and modified. It is also important to encourage operators to consider this safety issue. These P/Ns have the same potential for failure as the P/Ns listed in paragraph (l) of the NPRM. However, we must allow time for the public to comment on each additional requirement, and adding these P/Ns to paragraph (l) of the AD would increase the scope of the AD by adding a requirement. The degree of urgency associated with the unsafe condition is such that we consider any delay to this action to be inappropriate. Therefore, we have not changed the AD in this regard; however, we will consider additional rulemaking to address P/Ns 332700–1009 and 333200–1009.

Request To Clarify On-Airplane Modification

Air Transport Association (ATA), on behalf of United Airlines (UAL) requests that we re-word paragraph (j) of the NPRM for clarity. UAL indicates that the NPRM should state explicitly that it is acceptable to modify the PCM while it is installed on the airplane. UAL points out that this change would match the ''Relevant Service Information'' section of the NPRM.

We agree with the commenters' request to clarify this requirement. It is acceptable to modify the PCM while it is installed on the airplane. However, we understand that some operators might prefer the option to do the modification while the PCM is not installed on the airplane. Therefore, we have revised paragraph (j) of the AD to clarify that either method of modification is acceptable.

Request To Clarify Correct Service Bulletin Tasks

ATA on behalf of UAL, requests that we revise the AD to clearly state the correct service bulletin tasks for on-wing testing for PCMs modified on-wing, and shop-level testing for PCMs removed from the airplane. The commenters explain that the NPRM requires or refers to four documents that specify testing methods after modifying the PCM: Two component service bulletins (Parker Service Bulletins 332700–27–312 and 333200–27–314, both dated September 13, 2007), one Boeing service bulletin (Boeing Alert Service Bulletin 747–27A2479, dated November 8, 2007), and the Boeing airplane maintenance manual (AMM). The commenters state that a clarification would avoid compliance issues.

We agree that the numerous documents complicate the requirements. However, the numerous documents are necessary to provide operators with two options to modify the airplane. They can replace the existing PCM with a PCM that has a yaw damper retention device, or install the yaw damper retention device into the existing PCM on the airplane. We disagree that it is necessary to change the AD in this regard. The service information and the associated AMM sections clearly state which tests must be performed, depending on whether the PCM is replaced or modified while installed on the airplane.

Conclusion

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

Costs of Compliance

There are about 655 airplanes of the affected design in the worldwide fleet. This AD affects about 86 airplanes of U.S. registry. The following table provides the estimated costs for U.S.

operators to comply with this AD. The average labor rate is $80 per work hour.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Fleet cost
Ultrasonic inspection (required by AD 2006–18–17).	4	None	$320, per inspection cycle.	$27,520, per inspection cycle.
Option 1—replacement (new action)	Up to 22	Up to $4,496	Up to $6,256	Up to $538,016.
Option 2—modification (new action)	Up to 13	Up to $722	Up to $1,762	Up to $151,532.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14756 (71 FR 52999, September 8, 2006) and by adding the following new airworthiness directive (AD):

2008–13–03 Boeing: Amendment 39–15566. Docket No. FAA–2008–0273; Directorate Identifier 2007–NM–369–AD.

Effective Date

(a) This AD becomes effective July 24, 2008.

Affected ADs

(b) This AD supersedes AD 2006–18–17.

Applicability

(c) This AD applies to Boeing Model 747–400, 747–400D, and 747–400F series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 747–27A2479, dated November 8, 2007.

Unsafe Condition

(d) This AD results from additional reports of failure or cracking of the power control module (PCM) manifold in the area of the yaw damper cavity endcap at intervals well below the initial inspection threshold of the existing AD. We are issuing this AD to prevent an uncommanded left rudder hardover in the event of cracking in the yaw damper actuator portion of the upper or lower rudder PCMs, and subsequent failure of the PCM manifold, which could result in increased pilot workload, and possible runway departure upon landing.

Compliance

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

Verification of Rudder PCM/Main Manifold Time-in-Service

(f) For any affected airplane, if it can be positively verified that any rudder PCM or PCM main manifold installed on that airplane has accumulated a different total of flight hours or flight cycles than the totals accumulated by that airplane, the flight cycles or flight hours accumulated by the rudder PCM or PCM main manifold will be acceptable as valid starting points for meeting the compliance times required by this AD.

Ultrasonic Inspections

(g) Do an ultrasonic inspection for cracking of the yaw damper actuator portion of the upper and lower rudder PCMs at the applicable times specified in paragraph (g)(1) or (g)(2) of this AD in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–27A2397, Revision 2, dated September 1, 2005. Doing the installation required by paragraph (j) of this AD ends the inspection requirements of this paragraph for that PCM.

(1) For airplanes that have been inspected before the effective date of this AD in accordance with Boeing Alert Service Bulletin 747–27A2397, dated July 24, 2003; Revision 1, dated March 31, 2005; or Revision 2, dated September 1, 2005: Do the ultrasonic inspection at the later of the times specified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD. Repeat the inspection thereafter at intervals not to exceed 7,000 flight hours or 1,125 flight cycles, whichever occurs first, until the action required by paragraph (j) of this AD is accomplished.

(i) Within 7,000 flight hours or 1,125 flight cycles after the prior inspection, whichever occurs first.

(ii) Within 6 months after the effective date of this AD.

(2) For airplanes that have not been inspected before the effective date of this AD in accordance with Boeing Alert Service Bulletin 747–27A2397, dated July 24, 2003; Revision 1, dated March 31, 2005; or Revision 2, dated September 1, 2005: Do the ultrasonic inspection at the later of the times specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD. Repeat the inspection thereafter at intervals not to exceed 7,000 flight hours or 1,125 flight cycles, whichever occurs first,

until the action required by paragraph (j) of this AD is accomplished.

(i) Prior to the accumulation of 14,000 total flight hours or 2,250 total flight cycles, whichever occurs first.

(ii) Within 6 months after the effective date of this AD.

Action if No Cracking Is Found

(h) If no cracking is found during any inspection required by paragraph (g) of this AD: Before further flight, apply sealant and a torque stripe and install a lockwire on the rudder PCM in accordance with the Accomplishment Instructions, and Figure 1 or Figure 2, as applicable, of Boeing Service Bulletin 747–27A2397, Revision 2, dated September 1, 2005.

Action if Cracking Is Found

(i) If any cracking is found during any inspection required by paragraph (g) of this AD: Before further flight, do the action in paragraph (i)(1) or (i)(2) of this AD.

(1) Replace the affected PCM with a new or serviceable PCM in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–27A2397, Revision 2, dated September 1, 2005.

(2) Replace the PCM with a PCM that has the new secondary retention device installed as specified in paragraph (j) of this AD.

Terminating Action

(j) Within 24 months or 8,400 flight hours after the effective date of this AD, whichever occurs earlier: Install a new secondary retention device for the yaw damper piston assembly in both the upper and lower PCMs by either replacing the existing PCM with a new improved PCM that already has the new secondary retention device, or by modifying, testing, and re-identifying the existing PCM while the PCM is installed on the airplane. Do the installation in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–27A2479, dated November 8, 2007. Doing the installation terminates the inspection requirements of this AD.

Note 1: Boeing Alert Service Bulletin 747–27A2479 refers to Parker Service Bulletins 332700–27–312 and 333200–27–314, both dated September 13, 2007, as additional sources of service information for modifying the PCM.

Prior Accomplishment of Requirements

(k) Actions accomplished before October 13, 2006 (the effective date of AD 2006–18–17), in accordance with Boeing Alert Service Bulletin 747–27A2397, dated July 24, 2003; or Revision 1, dated March 31, 2005; are considered acceptable for compliance with the corresponding requirements of this AD.

Parts Installation

(l) As of October 13, 2006, no person may install on any airplane a rudder PCM having a top assembly part number (P/N) 332700–1003, –1005, or –1007; or P/N 333200–1003, –1005, or –1007; unless the PCM has been ultrasonically inspected and found to be without cracks; in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–27A2397, Revision 2, dated September 1, 2005, as specified by paragraph (g) of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

(3) AMOCs approved previously in accordance with AD 2006–18–17 are approved as AMOCs for the corresponding provisions of paragraphs (g), (h), and (i) of this AD.

Material Incorporated by Reference

(n) You must use Boeing Service Bulletin 747–27A2397, Revision 2, dated September 1, 2005; and Boeing Alert Service Bulletin 747–27A2479, dated November 8, 2007; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747–27A2479, dated November 8, 2007, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) October 13, 2006 (71 FR 52999, September 8, 2006), the Director of the Federal Register approved the incorporation by reference of Boeing Service Bulletin 747–27A2397, Revision 2, dated September 1, 2005.

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

Issued in Renton, Washington, on June 9, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13561 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0275; Directorate Identifier 2007–NM–335–AD; Amendment 39–15565; AD 2008–13–02]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes

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

ACTION: Final rule.

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

Cracks have been found in the propeller blades and propeller hubs, for which ongoing controlling actions issued by the propeller TC [type certificate] holder (McCauley Propeller Systems) have been mandated by FAA Airworthiness Directive (AD) action.

Current FAA ADs related to this subject are 2003–17–10 (which superseded AD 2003–15–01), 2004–23–16, 2005–24–08 and 2006–15–13.

Cracking of the blade or hub can ultimately lead to blade release with potentially catastrophic consequences. * * *

* * * * *

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

DATES: This AD becomes effective July 24, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 24, 2008.

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

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 13, 2008 (73 FR 13504). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Cracks have been found in the propeller blades and propeller hubs, for which ongoing controlling actions issued by the propeller TC [type certificate] holder (McCauley Propeller Systems) have been mandated by FAA Airworthiness Directive (AD) action.

Current FAA ADs related to this subject are 2003–17–10 (which superseded AD 2003–15–01), 2004–23–16, 2005–24–08 and 2006–15–13.

Cracking of the blade or hub can ultimately lead to blade release with potentially catastrophic consequences. BAE Systems has concluded that safety margins can be further improved by introducing operating limitations that will prevent damaging stresses in the propeller assembly, instructing flight crews to place the propeller condition levers in the Flight position during all ground maneuvering.

EASA concurs with this conclusion and this AD therefore requires the replacement of the Propeller Limitations Placard with a new one.

Corrective actions include revising the airplane flight manual. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 7 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $25 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $1,295, or $185 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–13–02 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–15565. Docket No. FAA–2008–0275; Directorate Identifier 2007–NM–335–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 24, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 11: Placards and Markings.

Reason

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

Cracks have been found in the propeller blades and propeller hubs, for which ongoing controlling actions issued by the propeller TC [type certificate] holder (McCauley Propeller Systems) have been mandated by FAA Airworthiness Directive (AD) action.

Current FAA ADs related to this subject are 2003–17–10 (which superseded AD 2003–15–01), 2004–23–16, 2005–24–08 and 2006–15–13.

Cracking of the blade or hub can ultimately lead to blade release with potentially catastrophic consequences. BAE Systems has concluded that safety margins can be further improved by introducing operating limitations that will prevent damaging stresses in the propeller assembly, instructing flight crews to place the propeller condition levers in the Flight position during all ground maneuvering.

EASA concurs with this conclusion and this AD therefore requires the replacement of the Propeller Limitations Placard with a new one.

Corrective actions include revising the airplane flight manual.

Actions and Compliance

(f) Within 90 days after the effective date of this AD, unless already done, do the following actions.

(1) Replace the existing Propeller Limitations Placard in the cockpit with a new placard, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin J41–11–027, dated March 29, 2007.

(2) Revise the BAe Jetstream Series 4100 Flight Manual (FM) to include the information in BAe Jetstream Series 4100 General Amendment G12, approved January 2007, and BAe Jetstream Series 4100 Advance Amendment Bulletin 13, approved April 4, 2007. General Amendment G12 describes a rolling take-off technique and the reduced possibility of landing with ice contaminating the wings, and adds a Gross Height/Pressure Altitude Conversion Chart. Advance Amendment Bulletin 13 introduces procedures for placing the propeller condition levers in the Flight position during all ground maneuvering. Operate the airplane according to the procedures in General Amendment G12 and Advance Amendment Bulletin 13.

Note 1: This may be done by inserting copies of General Amendment G12 and Advance Amendment Bulletin 13 into the FM. When General Amendment G12 and Advance Amendment Bulletin 13 have been included in general revisions of the FM, the general revisions may be inserted in the FM, provided the relevant information in the general revision is identical to that in General Amendment G12 and Advance Amendment Bulletin 13.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2007–0268, dated October 8, 2007; BAE Systems (Operations) Limited Service Bulletin J41–11–027, dated March 29, 2007; BAe Jetstream Series 4100 General Amendment G12, approved January 2007, to the Jetstream Series 4100 Flight Manual; and BAe Jetstream Series 4100 Advance Amendment Bulletin 13, approved April 4, 2007, to the Jetstream Series 4100 Flight Manual; for related information.

Material Incorporated by Reference

(i) You must use the service information specified in Table 1 of this AD to do the actions required by this AD, as applicable, unless the AD specifies otherwise. (The approval date of BAe Jetstream Series 4100 General Amendment G12 is specified only on page 0–2–4.) BAe Jetstream Series 4100 General Amendment G12 contains the following effective pages:

Page

List of Effective Pages
Pages 0–4–1 through 0–4–6

Date

January 2007

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Service information	Date
BAe Jetstream Series 4100 Advance Amendment Bulletin 13 to the Jetstream Series 4100 Flight Manual	April 4, 2007.
BAe Jetstream Series 4100 General Amendment G12 to the Jetstream Series 4100 Flight Manual	January, 2007.
BAE Systems (Operations) Limited Service Bulletin J41–11–027	March 29, 2007.

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

(2) For service information identified in this AD, contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171.

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

Issued in Renton, Washington, on June 10, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13563 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0296; Directorate Identifier 2007–NM–307–AD; Amendment 39–15567; AD 2008–13–04]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 20–C5, 20–D5, and 20–E5 Airplanes

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

ACTION: Final rule.

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

This Airworthiness Directive (AD) is prompted by the discovery on an in-service Mystere-Falcon 20–C5 of a collapsed wing anti-ice flexible hose due to internal ply separation.

Consequences on the aircraft can be insufficient anti-icing not detected by the monitoring system. Ice accretion on the wing might then occur and might jeopardize the aircraft flight performance and safety.

* * * * *

The unsafe condition is undetected excessive ice build-up on the wings, which could interfere with controllability of the airplane. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective July 24, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 24, 2008.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 13, 2008 (73 FR 13509). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

This Airworthiness Directive (AD) is prompted by the discovery on an in-service Mystere-Falcon 20–C5 of a collapsed wing anti-ice flexible hose due to internal ply separation.

Consequences on the aircraft can be insufficient anti-icing not detected by the monitoring system. Ice accretion on the wing might then occur and might jeopardize the aircraft flight performance and safety.

The present AD mandates replacement of the wing anti-ice flexible hoses by new ones of an improved design.

The unsafe condition is undetected excessive ice build-up on the wings, which could interfere with controllability of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 214 products of U.S. registry. We also estimate that it will take about 5 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $887 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $275,418, or $1,287 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–13–04 Dassault Aviation (Formerly Avions Marcel Dassault-Breguet Aviation (AMD/BA)): Amendment 39–15567. Docket No. FAA–2008–0296; Directorate Identifier 2007–NM–307–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 24, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Dassault Model Mystere-Falcon 20–C5, 20–D5, and 20–E5 airplanes, certificated in any category, all serial numbers.

Subject

(d) Air Transport Association (ATA) of America Code 30: Ice and Rain Protection.

Reason

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

This Airworthiness Directive (AD) is prompted by the discovery on an in-service Mystere-Falcon 20–C5 of a collapsed wing anti-ice flexible hose due to internal ply separation.

Consequences on the aircraft can be insufficient anti-icing not detected by the monitoring system. Ice accretion on the wing might then occur and might jeopardize the aircraft flight performance and safety.

The present AD mandates replacement of the wing anti-ice flexible hoses by new ones of an improved design.

The unsafe condition is undetected excessive ice build-up on the wings, which could interfere with controllability of the airplane.

Actions and Compliance

(f) Within 7 months after the effective date of this AD, unless already done, do the following actions.

(1) Inspect to determine whether any wing anti-ice flexible hose having part number (P/N) FAL1006 or P/N ARM224A is installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the wing anti-ice flexible hose can be conclusively determined from that review. If any wing anti-ice flexible hose does not have P/N FAL1006 or P/N ARM224A, no further action is required by this AD for that hose, except as required by paragraph (f)(3) of this AD.

(2) Remove any wing anti-ice flexible hose having P/N FAL1006 or P/N ARM224A, and install a new hose having ESPA (brand) P/N 60503104509; in accordance with the Accomplishment Instructions of Dassault Service Bulletin F20–775, dated July 9, 2007.

(3) As of the effective date of this AD, no person shall install any flexible hose having P/N FAL1006 or P/N ARM224A on any Model Mystere-Falcon 20–C5, 20–D5, or 20–E5 airplane specified in the applicability of this AD.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: The MCAI does not require inspecting to determine the part numbers of the wing anti-ice flexible hoses. This AD requires such an inspection.

Other FAA AD Provisions

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

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

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2007–0227, dated September 17, 2007; and Dassault Service Bulletin F20–775, dated July 9, 2007; for related information.

Material Incorporated by Reference

(i) You must use Dassault Service Bulletin F20–775, dated July 9, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

Issued in Renton, Washington, on June 9, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13576 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0365; Directorate Identifier 2007–NM–274–AD; Amendment 39–15563; AD 2008–12–19]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystère-Falcon 900 and Falcon 900EX Airplanes

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

ACTION: Final rule.

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

This Airworthiness Directive (AD) is issued following the discovery of a potential chafing between the feeder bundle and the right side partition wall separating the cabin from the lavatory at frames 22/23. This chafing may damage the feeder bundle and cause a sustained smoke-generating short-circuit between the feeder and the partition wall made of resistive composite material. Strong smoke and a difficult-to-localize short-circuit may result in a hazardous situation.

The unsafe condition is sustained smoke in the cabin, which may lead to reduced ability of the flightcrew to operate the airplane. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective July 24, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as July 24, 2008.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 31, 2008 (73 FR 16784). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> This Airworthiness Directive (AD) is issued following the discovery of a potential chafing between the feeder bundle and the right side partition wall separating the cabin from the lavatory at frames 22/23. This chafing may damage the feeder bundle and cause a sustained smoke-generating short-circuit between the feeder and the partition wall made of resistive composite material. Strong smoke and a difficult-to-localize short-circuit may result in a hazardous situation.

The unsafe condition is sustained smoke in the cabin, which may lead to reduced ability of the flightcrew to operate the airplane. Corrective actions include inspecting for damage of the feeder cables, repairing any damaged feeder cable, installing a protective Teflon tube over the feeder cable bundle, and modifying the partition wall. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 38 products of U.S. registry. We also estimate that it will take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $34 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $10,412, or $274 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–12–19 Dassault Aviation: Amendment 39–15563. Docket No. FAA–2008–0365; Directorate Identifier 2007–NM–274–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 24, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the Dassault airplanes described in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Model Mystère-Falcon 900 airplanes, serial numbers 188 through 202 inclusive, except those on which both Dassault Service Bulletins F900–358 and F900–359 have already been implemented, or Modification M3891 has already been implemented.

(2) Model Falcon 900EX airplanes, serial numbers 82 through 146 inclusive, except those on which both Dassault Service Bulletins F900EX–241 and F900EX–251 have already been implemented, or Modification M3891 has already been implemented.

Subject

(d) Air Transport Association (ATA) of America Code 24: Electrical Power.

Reason

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

This Airworthiness Directive (AD) is issued following the discovery of a potential chafing between the feeder bundle and the right side partition wall separating the cabin from the lavatory at frames 22 / 23. This chafing may damage the feeder bundle and cause a sustained smoke-generating short-circuit between the feeder and the partition wall made of resistive composite material. Strong smoke and a difficult-to-localize short-circuit may result in a hazardous situation.

The unsafe condition is sustained smoke in the cabin, which may lead to reduced ability of the flightcrew to operate the airplane. Corrective actions include inspecting for damage of the feeder cables, repairing any damaged feeder cable, installing a protective Teflon tube over the feeder cable bundle, and modifying the partition wall.

Actions and Compliance

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

(1) For Model Mystère-Falcon 900 airplanes: Do the actions specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD.

(i) Within 330 flight hours or 7 months after the effective date of this AD, whichever occurs first, inspect for damage of the feeder cable bundle at the right side partition wall at frames 22/23, and, if no damage of any feeder cable is found, before further flight, install a protective Teflon tube over the feeder cable bundle; in accordance with the Accomplishment Instructions of Dassault Service Bulletin F900–358, Revision 1, dated July 19, 2006. If chafing or damage of any feeder cable is found, before further flight, repair the feeder cable in accordance with the Accomplishment Instructions of Dassault Service Bulletin F900–359, Revision 1, dated July 19, 2006; and install a protective Teflon tube over the feeder cable bundle in accordance with Dassault Service Bulletin F900–359, Revision 1, or Dassault Service Bulletin F900–358, Revision 1.

(ii) Within 3,750 flight cycles or 74 months after the effective date of this AD, whichever occurs first, modify the right side partition wall at frames 22/23; in accordance with the Accomplishment Instructions of Dassault Service Bulletin F900–359, Revision 1, dated July 19, 2006. Implementation of both Dassault Service Bulletin F900–358 and Dassault Service Bulletin F900–359, both Revision 1, both dated July 19, 2006, terminates the requirements of this AD for Model Mystère-Falcon 900 airplanes.

(2) For Model Falcon 900EX airplanes: Do the actions specified in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD.

(i) Within 330 flight hours or 7 months after the effective date of this AD, whichever occurs first, inspect for damage of the feeder cable bundle at the right side partition wall at frames 22/23, and, if no such damage of any feeder cable is found, before further flight, install a protective Teflon tube over the feeder cable bundle; in accordance with the Accomplishment Instructions of Dassault Service Bulletin F900EX–241, Revision 1, dated July 19, 2006. If any damage of any feeder cable is found, before further flight, repair the feeder cable in accordance with the Accomplishment Instructions of Dassault Service Bulletin F900EX–251, Revision 1, dated July 19, 2006; and install a protective Teflon tube over the feeder cable bundle in accordance with Dassault Service Bulletin F900EX–251, Revision 1, or Dassault Service Bulletin F900EX–241, Revision 1.

(ii) Within 3,750 flight cycles or 74 months after the effective date of this AD, whichever occurs first, modify the right side partition wall at frames 22/23, in accordance with the Accomplishment Instructions of Dassault Service Bulletin F900EX–251, Revision 1, dated July 19, 2006. Implementation of both Dassault Service Bulletin F900EX–241 and Dassault Service Bulletin F900EX–251, both Revision 1, both dated July 19, 2006, terminates the requirements of this AD for Model Falcon 900EX airplanes.

Actions Accomplished According to Previous Issue of Service Bulletin

(g) Actions accomplished before the effective date of this AD, in accordance with the service information described in Table 1 of this AD, are considered acceptable for compliance with the corresponding actions specified in this AD.

TABLE 1.—PREVIOUS SERVICE INFORMATION

Airplane model	Dassault service bulletin	Date
Falcon 900EX	F900EX–241	October 19, 2005.
Falcon 900EX	F900EX–251	October 19, 2005.
Mystère-Falcon 900	F900–358	October 19, 2005.
Mystère-Falcon 900	F900–359	October 19, 2005.

FAA AD Differences

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

Other FAA AD Provisions

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

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

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

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

Related Information

(i) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2006–0270, dated September 4, 2006, and the service bulletins described in Table 2 of this AD, for related information.

TABLE 2.—DASSAULT SERVICE INFORMATION

Service bulletin	Revision	Dated
F900EX–241	1	July 19, 2006.
F900EX–251	1	July 19, 2006.
F900–358	1	July 19, 2006.
F900–359	1	July 19, 2006.

Material Incorporated by Reference

(j) You must use the service information specified in Table 3 of this AD to do the

actions required by this AD, as applicable, unless the AD specifies otherwise.

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

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

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

TABLE 3.—MATERIAL INCORPORATED BY REFERENCE

Dassault service bulletin	Revision	Date
F900EX–241	1	July 19, 2006.
F900EX–251	1	July 19, 2006.
F900–358	1	July 19, 2006.
F900–359	1	July 19, 2006.

Issued in Renton, Washington, on June 5, 2008.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13589 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0641; Directorate Identifier 2008–NM–105–AD; Amendment 39–15573; AD 2008–13–10]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Falcon 7X Airplanes

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

ACTION: Final rule; request for comments.

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

Investigation following incidents on the production line has shown that power feeders inside the Secondary Power Distribution Boxes (SPDB) may be damaged because of interference with other internal parts. This condition, if not corrected, may lead to losing essential feeders. The resulting power shortage may reduce aircraft operability and affect flight safety margins.

* * * * *

Damaged secondary power distribution boxes could lead to loss of electrical power resulting in depressurization with loss of passenger oxygen supply and uncommanded slat retraction. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective July 7, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication, listed in the AD as of July 7, 2008.

We must receive comments on this AD by July 21, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Emergency Airworthiness Directive 2008–0085–E, dated May 6, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Investigation following incidents on the production line has shown that power feeders inside the Secondary Power Distribution Boxes (SPDB) may be damaged because of interference with other internal parts. This condition, if not corrected, may lead to losing essential feeders. The resulting power shortage may reduce aircraft operability and affect flight safety margins.

To address and correct the unsafe condition, an upgraded SPDB with improved internal feeder routing has been developed.

For the reasons described above, this Airworthiness Directive (AD) requires replacement of all affected SPDB with upgraded units and, in the meantime, the implementation of temporary Airplane Flight Manual (AFM) procedures and Master Minimum Equipment List (MMEL) restrictions before replacement of all affected SPDB.

Damaged secondary power distribution boxes could lead to loss of electrical power resulting in depressurization with loss of passenger oxygen supply and uncommanded slat retraction. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Dassault has issued Service Bulletin 7X–064, dated April 16, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

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

Differences Between the AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S.

operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because operators must adhere to certain operational and dispatch limitations to prevent possible catastrophic situations from loss of essential buses through damage to the SPDBs. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0641; Directorate Identifier 2008–NM–105–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–13–10 Dassault Aviation (Formerly Avions Marcel Dassault-Breguet Aviation (AMD/BA)): Amendment 39–15573. Docket No. FAA–2008–0641; Directorate Identifier 2008–NM–105–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 7, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Dassault Model Falcon 7X airplanes, all serial numbers, certificated in any category, if equipped with secondary power distribution box (SPDB) units with part number (P/N) SPD500–B3, SPD600–A9, SPD300–B3–A6 and/or SPD400–B4–A6, except those airplanes that have received modification M890 prior to delivery.

Subject

(d) Air Transport Association (ATA) of America Code 24: Electrical Power.

Reason

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

Investigation following incidents on the production line has shown that power feeders inside the Secondary Power Distribution Boxes (SPDB) may be damaged because of interference with other internal parts. This condition, if not corrected, may lead to losing essential feeders. The resulting power shortage may reduce aircraft operability and affect flight safety margins.

To address and correct the unsafe condition, an upgraded SPDB with improved internal feeder routing has been developed.

For the reasons described above, this Airworthiness Directive (AD) requires replacement of all affected SPDB with upgraded units and, in the meantime, the implementation of temporary Airplane Flight Manual (AFM) procedures and Master Minimum Equipment List (MMEL) restrictions before replacement of all affected SPDB.

Damaged secondary power distribution boxes could lead to loss of electrical power resulting in depressurization with loss of passenger oxygen supply and uncommanded slat retraction.

Actions and Compliance

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

(1) Within 10 days after the effective date of this AD, revise the Limitations Section of the AFM to include the following information. This may be done by inserting a copy of this AD in the AFM. These temporary amendments take precedence over the same procedures displayed through the electronic check list (ECL) in the aircraft.

''○ Dispatch with ATA27 Flight Controls MMEL items is not authorized.

○ Dispatch with IRS 3 inoperative is not authorized.

○ Land as soon as possible upon display on Crew Alerting system of following messages per the AFM as already requested for ELEC: LH FRONT ESS FAIL (AFM 3–190–50):

- ELEC: LH REAR ESS FAIL (AFM 3–190–50)
- ELEC: RH FRONT ESS FAIL (AFM 3–190–55)
- ELEC: RH REAR ESS FAIL (AFM 3–190–55)''

Note 1: When a statement identical to that in paragraph (f)(1) of this AD has been

included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

(2) Within 2 months after the effective date of this AD, replace all SPDB units with upgraded units in accordance with the Accomplishment Instructions of Dassault Service Bulletin 7X–064, dated April 16, 2008. After replacement of all SPDB units as required by paragraph (f)(2) of this AD, the limitations required by paragraph (f)(1) of this AD may be removed from the AFM.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: Although the MCAI specifies to amend the Abnormal Procedures section of the AFM, the Quick Reference Handbook 2, and the Master Minimum Equipment List, this AD instead requires revising only the Limitations section of the AFM. Operators must comply with the terms of the Limitations section, as specified in section 91.9 of the Federal Aviation Regulations (14 CFR 91.9).

Other FAA AD Provisions

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

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

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Emergency Airworthiness Directive 2008–0085–E, dated May 6, 2008, and Dassault Service Bulletin 7X–064, dated April 16, 2008, for related information.

Material Incorporated by Reference

(i) You must use Dassault Service Bulletin 7X–064, dated April 16, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

Issued in Renton, Washington, on June 10, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–13712 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 303

DEPARTMENT OF THE INTERIOR

Office of Insular Affairs

[Docket No. 080306383–8384–01]

RIN 0625–AA78

Changes in the Insular Possessions Watch, Watch Movement and Jewelry Programs 2006; Corrections

AGENCY: Import Administration, International Trade Administration, Department of Commerce; Office of Insular Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The Departments of Commerce and the Interior (the Departments) issue this rule to amend their regulations governing jewelry duty-refund benefits for producers in the United States insular possessions (the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands) published on April 5, 2007 (72 FR 16713). This amendment is needed to correct the formula for the calculation of the jewelry duty-refund, in accordance with Public Law 108–429.

DATES: This rule is effective June 19, 2008.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, Director, Statutory Import Programs Staff at (202) 482–3526.

SUPPLEMENTARY INFORMATION: The Departments of Commerce and the Interior (the Departments) published a document in the **Federal Register** on April 5, 2007 (72 FR 16712), amending their regulations governing watch duty-exemption allocations and the watch and jewelry duty-refund benefits for producers in the United States insular possessions (the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands). That document inadvertently provided an incorrect formula for the calculation of the jewelry duty-refund in sections 303.15(b), 303.20(b)(1) and 303.20(b)(2). This document corrects the final regulations by revising the unit thresholds in the mid-year duty-refund benefit calculation to reflect the correct amounts. The unit thresholds are amended by replacing the amounts in sections 303.20(b)(1)(ii), (b)(1)(ii) and (b)(1)(iii) from 450,000; 600,000 and 750,000 to 3,533,334; 6,766,667 and 10,000,000, respectively. This rule also corrects the final regulations by revising the calculation and unit thresholds in the annual duty-refund benefit calculation to reflect the correct formula and amounts. The unit thresholds are amended by replacing the amounts in sections 303.20(b)(2)(ii), (b)(2)(ii) and (b)(2)(iii) from 450,000; 600,000 and 750,000 to 3,533,334; 6,766,667 and 10,000,000 respectively.

Classification

Administrative Procedure Act

The International Trade Administration (ITA) finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for comment as it is impracticable and contrary to the public interest. This final rule amends the regulations governing jewelry duty-refund benefits for producers in the United States insular possessions. A previously published rule inadvertently provided an incorrect formula and unit thresholds for the calculation of the jewelry duty-refund in sections 303.15(b), 303.20(b)(1) and (b)(2). This document corrects the final regulations by revising these sections to be consistent with ITA's statutory mandate to provide duty-refund benefits as provided in Public Law 106–36 and 108–429. If this amendment is not implemented immediately, the correct formula and maximum unit thresholds would not be in place when the Departments calculate the amount of the duty-refund in July 2008. In order to have the correct formula and unit thresholds in place by the time the refund is calculated, it is necessary to implement this rule immediately.

Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

Paperwork Reduction Act

This final rule does not contain collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act (PRA). Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act unless that collection displays a valid OMB Control Number.

Executive Order 12866

It has been determined that this rule is not significant for purposes of Executive Order 12866.

Executive Order 13132

This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

List of Subjects in 15 CFR Part 303

Administrative practice and procedure, American Samoa, Customs duties and inspection, Guam, Imports, Marketing quotas, Northern Mariana Islands, Reporting and recordkeeping requirements, Virgin Islands, Watches and jewelry.

■ Accordingly, 15 CFR Part 330 is corrected by making the following correcting amendments: For reasons set forth above, the Departments amend 15 CFR Part 303 as follows:

PART 303—WATCHES, WATCH MOVEMENTS AND JEWELRY PROGRAM

■ 1. The authority citation for 15 CFR Part 303 continues to read as follows:

Authority: Pub. L. 97–446, 96 Stat. 2331(19 U.S.C. 1202, note); Pub. L. 103–465, 108 Stat. 4991; Pub. L. 94–241, 90 Stat. 263 (48 U.S.C. 1681, note); Pub. L. 106–36, 113 Stat.167; Pub. L. 108–429, 118 Stat. 2582.

§ 303.15 [Amended]

■ 2. Section 303.15 is amended by removing ''750,000'' from the second sentence of paragraph (b) and adding ''10,000,000'' in its place.

■ 3. Section 303.20(b) is revised to read as follows:

§ 303.20 Duty-refund calculations and miscellaneous provisions.

* * * * *

(b) Calculation of the value of the mid-year production incentive certificates.

(1) The value of each producer's certificate shall equal the producer's average creditable wage per unit shipped during the first six months of the calendar year multiplied by the sum of:

(i) The number of units shipped up to 300,000 units times a factor of 90%; plus

(ii) Incremental units shipped up to 3,533,334 units times a factor of 85%; plus

(iii) Incremental units shipped up to 6,766,667 units times a factor of 80%; plus

(iv) Incremental units shipped up to 10,000,000 units times a factor of 75%.

(2) Calculation of the value of the annual production incentive certificates. The value of each producer's certificate shall equal the producer's average creditable benefit per unit based on creditable wages, health insurance, life insurance and pension benefits averaged from the amount of duty free units shipped during the calendar year multiplied by the sum of the following to obtain the total verified amount of the annual duty-refund per company. This amount would then be adjusted by deducting the amount of the mid-year duty-refund already issued.

(i) The number of units shipped up to 300,000 units times a factor of 90%; plus

(ii) Incremental units shipped up to 3,533,334 units times a factor of 85%; plus

(iii) Incremental units shipped up to 6,766,667 units times a factor of 80%; plus

(iv) Incremental units shipped up to 10,000,000 units times a factor of 75%.

* * * * *

Dated: June 5, 2008.

Carole Showers,

Acting Deputy Assistant Secretary for Policy and Negotiations, Department of Commerce.

Stephen Sander,

Acting Director, Office of Insular Affairs, Import Administration, Department of Interior.

[FR Doc. E8–13527 Filed 6–18–08; 8:45 am]

BILLING CODE 3510–DS–M(50%); 4310–93–M(50%)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 800, 801, 808, 814, 821, 860, 876, 882, 884, 886, 890, 1005, and 1010

[Docket No. FDA–2008–N–0332]

Medical Devices; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending certain medical device regulations to correct typographical errors and to ensure accuracy and clarity in the agency's regulations.

DATES: This rule is effective June 19, 2008.

FOR FURTHER INFORMATION CONTACT: Paul S. Gadiock, Center for Devices and Radiological Health (HFZ–215), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 240–276–2343.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is amending its regulations in parts 800, 801, 808, 814, 821, 860, 876, 882, 884, 886, 890, 1005, and 1010 (21 CFR parts 800, 801, 808, 814, 821, 860, 876, 882, 884, 886, 890, 1005, and 1010) to correct typographical errors and to update addresses, telephone numbers, and wording to ensure accuracy and clarity in the agency's medical device regulations.

Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). FDA has determined that notice and public comment are unnecessary because these errors are nonsubstantive.

II. Highlights of the Final Rule

FDA is making changes to correct typographical and other minor errors in certain device regulations in parts 800, 801, 808, 814, 821, 860, 876, 882, 884, 886, 890, 1005, and 1010.

1. FDA is revising § 800.12(d) by removing ''This information collection requirement has been approved by the Office of Management and Budget under number 0910–0150.''

2. FDA is revising § 801.420(d) by replacing ''Bureau of Medical Devices and Diagnostic Products, Division of Compliance, HFK–116, 8757 Georgia

Ave., Silver Spring, MD 20910'' with ''Office of Compliance, Division of Enforcement A, 2094 Gaither Rd., Rockville, MD 20850.''

3. FDA is revising § 808.1(d)(9) by replacing ''the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90–602 (42 U.S.C. 263b *et seq.*))'' with ''Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968).'' FDA is also replacing ''Atomic Energy act'' with ''Atomic Energy Act.''

4. FDA is revising § 814.20(b)(5) by replacing ''the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b *et seq.*)'' with ''section 534 of Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968).''

5. FDA is revising § 814.45(b) by replacing ''515(d)(3)'' with ''515(d)(4).''

6. FDA is revising § 821.1(c) by replacing ''501(t)(2)'' with ''502(t)(2).''

7. FDA is revising § 860.134(a) by replacing ''513(f)(2)'' with ''513(f)(3).''

8. FDA is revising § 876.5250(b)(2) by replacing ''subject to the limitations in § 876.9'' with ''the device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9.'' FDA is also replacing ''regulations'' with ''requirements of the quality system regulation.''

9. FDA is revising Subpart E of the Table of Contents of Part 882 by replacing ''882.4700 Neurosurgical paddle'' with ''882.4700 Neurosurgical paddie.''

10. FDA is revising Subpart F of the Table of Contents of Part 882 by replacing ''882.5800 Cranial electrotheraphy stimulator'' with ''882.5800 Cranial electrotherapy stimulator.''

11. FDA is revising the section heading in § 882.5800 by replacing ''electrotheraphy'' with ''electrotherapy.''

12. FDA is revising § 882.5800(a) by replacing ''electrotheraphy'' with ''electrotherapy.''

13. FDA is revising § 884.5435(b) by replacing ''interlabial'' with ''intralabial.''

14. FDA is revising § 886.1 by adding paragraph (e) reading ''Guidance documents referenced in this part are available on the Internet at *http://www.fda.gov/cdrh/guidance.html*.''

15. FDA is revising § 890.1 by adding paragraph (e) reading ''Guidance documents referenced in this part are available on the Internet at *http://www.fda.gov/cdrh/guidance.html*.''

16. FDA is revising § 1005.11 by replacing ''the Radiation Control for Health and Safety Act of 1968'' with ''Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968).''

17. FDA is revising § 1005.25(a) by replacing ''section 360(d) of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263h(d))'' with ''section 536(d) of Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968) (21 U.S.C. 360mm(d)).''

18. FDA is revising § 1005.25(c) by replacing ''section 360(d) of the Radiation Control for Health and Safety Act of 1968'' with ''section 536(d) of Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968) (21 U.S.C. 360mm(d)).''

19. FDA is revising § 1010.1 by replacing ''section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f)'' with ''section 534 of Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968) (21 U.S.C. 360kk).''

20. FDA is revising § 1010.4(a)(1) by replacing ''the Radiation Control for Health and Safety Act of 1968'' with ''Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968).''

III. Environmental Impact

The agency has determined under 21 CFR 25.30(i) that this final rule 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.

IV. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and 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 rule corrects only typographical and nonsubstantive errors in existing regulations and does not change in any way how devices are regulated, 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 million, using the most current (2006) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

V. Paperwork Reduction Act of 1995

FDA has determined that this final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

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 does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VII. The Technical Amendments

This rule updates and corrects existing regulations to ensure accuracy

and clarity. This administrative action is limited to correcting typographical errors; updating changes in addresses, web site locations, and telephone numbers; and clarifying regulation terminology. It makes no changes in substantive requirements.

For the effective date of this final rule, see the **DATES** section of this document. Because this final rule is an administrative action, FDA has determined that it has no substantive impact on the public. It imposes no costs, and merely makes technical administrative changes in the Code of Federal Regulations (CFR) for the convenience of the public. FDA, therefore, for good cause, finds under 5 U.S.C. 553(b)(3)(B) and (d)(3) that notice and public comment are unnecessary.

List of Subjects

21 CFR Part 800

Administrative practice and procedure, Medical devices, Ophthalmic goods and services, Packaging and containers, Reporting and recordkeeping requirements.

21 CFR Part 801

Labeling, Medical devices, Reporting and recordkeeping requirements.

21 CFR Part 808

Intergovernmental relations, Medical devices.

21 CFR Part 814

Administrative practice and procedure, Confidential business information, Medical devices, Medical research, Reporting and recordkeeping requirements.

21 CFR Part 821

Imports, Medical devices, Reporting and recordkeeping requirements.

21 CFR Part 860

Administrative practice and procedure, Medical devices.

21 CFR Part 876

Medical devices.

21 CFR Part 882

Medical devices.

21 CFR Part 884

Medical devices.

21 CFR Part 886

Medical devices, Ophthalmic goods and services.

21 CFR Part 890

Medical devices.

21 CFR Part 1005

Administrative practice and procedure, Electronic products, Imports, Radiation protection, Surety bonds.

21 CFR Part 1010

Administrative practice and procedure, Electronic products, Exports, Radiation protection.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 800, 801, 808, 814, 821, 860, 876, 882, 884, 886, 890, 1005, and 1010 are amended as follows:

PART 800—GENERAL

■ 1. The authority citation for 21 CFR part 800 continues to read as follows:

Authority: 21 U.S.C. 321, 334, 351, 352, 355, 360e, 360i, 360k, 361, 362, 371.

§ 800.12 [Amended]

■ 2. In § 800.12, paragraph (d) is amended by removing the last sentence.

PART 801—LABELING

■ 3. The authority citation for 21 CFR part 801 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 360i, 360j, 371, 374.

■ 4. In § 801.420, paragraph (d) is revised to read as follows:

§ 801.420 Hearing aid devices; professional and patient labeling.

* * * * *

(d) *Submission of all labeling for each type of hearing aid.* Any manufacturer of a hearing aid described in paragraph (a) of this section shall submit to the Food and Drug Administration, Office of Compliance, Division of Enforcement A, 2094 Gaither Rd., Rockville, MD 20850, a copy of the User Instructional Brochure described in paragraph (c) of this section and all other labeling for each type of hearing aid on or before August 15, 1977.

PART 808—EXEMPTIONS FROM FEDERAL PREEMPTION OF STATE AND LOCAL MEDICAL DEVICE REQUIREMENTS

■ 5. The authority citation for 21 CFR part 808 continues to read as follows:

Authority: 21 U.S.C. 360j, 360k, 371.

■ 6. In § 808.1, paragraph (d)(9) is revised to read as follows:

§ 808.1 Scope.

* * * * *

(d) * * *

(9) Section 521(a) does not preempt State or local requirements of the types that have been developed under the Atomic Energy Act of 1954 (42 U.S.C. 2011 note), as amended, Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968), and other Federal statutes, until such time as the Food and Drug Administration issues specific requirements under the Federal Food, Drug, and Cosmetic Act applicable to these types of devices.

* * * * *

PART 814—PREMARKET APPROVAL OF MEDICAL DEVICES

■ 7. The authority citation for 21 CFR part 814 continues to read as follows:

Authority: 21 U.S.C. 351, 352, 353, 360, 360c–360j, 371, 372, 373, 374, 375, 379, 379e, 381.

■ 8. In § 814.20, paragraph (b)(5) is revised to read as follows:

§ 814.20 Application.

* * * * *

(b) * * *

(5) Reference to any performance standard under section 514 of the act or under section 534 of Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968) in effect or proposed at the time of the submission and to any voluntary standard that is relevant to any aspect of the safety or effectiveness of the device and that is known to or that should reasonably be known to the applicant. The applicant shall—

(i) Provide adequate information to demonstrate how the device meets, or justify any deviation from, any performance standard established under section 514 of the act or under section 534 of Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968), and

(ii) Explain any deviation from a voluntary standard.

* * * * *

■ 9. In § 814.45, paragraph (b) is amended by revising the last sentence to read as follows:

§ 814.45 Denial of approval of a PMA.

* * * * *

(b) * * * The order will include a notice of an opportunity to request review under section 515(d)(4) of the act.

* * * * *

PART 821—MEDICAL DEVICE TRACKING REQUIREMENTS

■ 10. The authority citation for 21 CFR part 821 continues to read as follows:

Authority: 21 U.S.C. 331, 351, 352, 360, 360e, 360h, 360i, 371, 374.

■ 11. In § 821.1, paragraph (c) is revised to read as follows:

§ 821.1 Scope.

* * * * *

(c) The primary burden for ensuring that the tracking system works rests upon the manufacturer. A manufacturer or any other person, including a distributor, final distributor, or multiple distributor, who distributes a device subject to tracking, who fails to comply with any applicable requirement of section 519(e) of the act or of this part, or any person who causes such failure, misbrands the device within the meaning of section 502(t)(2) of the act and commits a prohibited act within the meaning of sections 301(e) and 301(q)(1)(B) of the act.

* * * * *

PART 860—MEDICAL DEVICE CLASSIFICATION PROCEDURES

■ 12. The authority citation for 21 CFR part 860 continues to read as follows:

Authority: 21 U.S.C. 360c, 360d, 360e, 360i, 360j, 371, 374.

■ 13. In § 860.134, paragraph (a) is amended by revising the first sentence of the introductory text to read as follows:

§ 860.134 Procedures for ''new devices'' under section 513(f) of the act and reclassification of certain devices.

(a) Section 513(f)(3) of the act applies to proceedings for reclassification of a device currently in class III by operation of section 513(f)(1) of the act. * * *

* * * * *

PART 876—GASTROENTEROLOGY-UROLOGY DEVICES

■ 14. The authority citation for 21 CFR part 876 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 15. In § 876.5250, paragraph (b)(2) is revised to read as follows:

§ 876.5250 Urine collector and accessories.

* * * * *

(b) * * *

(2) Class I (general controls). For a urine collector and accessories not intended to be connected to an indwelling catheter, the device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 876.9. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice requirements of the quality system regulation in part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

PART 882—NEUROLOGICAL DEVICES

■ 16. The authority citation for 21 CFR part 882 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 17. In the Table of Contents of Part 882, in Subpart E, § 882.4700 is amended by removing the word ''paddle'' and adding in its place the word ''paddie''.

■ 18. In the Table of Contents of Part 882, in Subpart F, § 882.5800 is amended by removing the word ''electrotheraphy'' and by adding in its place the word ''electrotherapy''.

■ 19. In § 882.5800, the section heading and paragraph (a) are revised to read as follows:

§ 882.5800 Cranial electrotherapy stimulator.

(a) *Identification.* A cranial electrotherapy stimulator is a device that applies electrical current to a patient's head to treat insomnia, depression, or anxiety.

* * * * *

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

■ 20. The authority citation for 21 CFR part 884 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 21. In § 884.5435, paragraph (b) is amended by revising the last sentence to read as follows:

§ 884.5435 Unscented menstrual pad.

* * * * *

(b) * * * This exemption does not include the intralabial pads and reusable menstrual pads.

PART 886—OPHTHALMIC DEVICES

■ 22. The authority citation for 21 CFR part 886 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 23. Section 886.1 is amended by adding paragraph (e) to read as follows:

§ 886.1 Scope.

* * * * *

(e) Guidance documents referenced in this part are available on the Internet at *http://www.fda.gov/cdrh/guidance.html*.

PART 890—PHYSICAL MEDICINE DEVICES

■ 24. The authority citation for 21 CFR part 890 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 25. Section 890.1 is amended by adding paragraph (e) to read as follows:

§ 890.1 Scope.

* * * * *

(e) Guidance documents referenced in this part are available on the Internet at *http://www.fda.gov/cdrh/guidance.html*.

PART 1005—IMPORTATION OF ELECTRONIC PRODUCTS

■ 26. The authority citation for 21 CFR part 1005 continues to read as follows:

Authority: 42 U.S.C. 263d, 263h.

■ 27. Section 1005.11 is revised to read as follows:

§ 1005.11 Payment for samples.

The Department of Health and Human Services will pay for all import samples of electronic products rendered unsalable as a result of testing, or will pay the reasonable costs of repackaging such samples for sale, if the samples are found to be in compliance with the requirements of Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968). Billing for reimbursement shall be made by the owner or consignee to the Center for Devices and Radiological Health, 5600 Fishers Lane, Rockville, MD 20857. Payment for samples will not be made if the sample is found to be in violation of the Act, even though subsequently brought into compliance pursuant to terms specified in a notice of permission issued under § 1005.22.

■ 28. Section 1005.25 is amended by revising paragraph (a) and the first sentence of paragraph (c) to read as follows:

§ 1005.25 Service of process on manufacturers.

(a) Every manufacturer of electronic products, prior to offering such product for importation into the United States, shall designate a permanent resident of the United States as the manufacturer's agent upon whom service of all processes, notices, orders, decisions, and requirements may be made for and

on behalf of the manufacturer as provided in section 536(d) of Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968) (21 U.S.C. 360mm(d)) and this section. The agent may be an individual, a firm, or a domestic corporation. For purposes of this section, any number of manufacturers may designate the same agent.

* * * * *

(c) Service of any process, notice, order, requirement, or decision specified in section 536(d) of Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968) (21 U.S.C. 360mm(d)) may be made by registered or certified mail addressed to the agent with return receipt requested, or in any other manner authorized by law. * * *

PART 1010—PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS: GENERAL

■ 29. The authority citation for 21 CFR part 1010 continues to read as follows:

Authority: 21 U.S.C. 351, 352, 360, 360e–360j, 371, 381; 42 U.S.C. 263b–263n.

■ 30. Section 1010.1 is revised to read as follows:

§ 1010.1 Scope.

The standards listed in this subchapter are prescribed pursuant to section 534 of Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968) (21 U.S.C. 360kk) and are applicable to electronic products as specified herein, to control electronic product radiation from such products. Standards so prescribed are subject to amendment or revocation and additional standards may be prescribed as are determined necessary for the protection of the public health and safety.

■ 31. In § 1010.4, paragraph (a)(1) is revised to read as follows:

§ 1010.4 Variances.

(a) *Criteria for variances.* (1) Upon application by a manufacturer (including an assembler), the Director, Center for Devices and Radiological Health, Food and Drug Administration, may grant a variance from one or more provisions of any performance standard under subchapter J of this chapter for an electronic product subject to such standard when the Director determines that granting such a variance is in keeping with the purposes of Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968), and:

(i) The scope of the requested variance is so limited in its applicability as not to justify an amendment to the standard, or

(ii) There is not sufficient time for the promulgation of an amendment to the standard.

* * * * *

Dated: June 13, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–13915 Filed 6–18–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF STATE

22 CFR Part 62

RIN 1400–AC48

[Public Notice: 6265]

Exchange Visitor Program—Au Pairs

AGENCY: Department of State.

ACTION: Interim Final Rule with request for comment.

SUMMARY: The Department is hereby revising its regulations regarding Au Pairs. The Interim Final Rule revises the section on repeat participation to allow qualified au pairs to repeat the program after a period of at least two years residency outside the United States following the end date of his or her initial program.

DATES: This rule is effective 30 days from July 21, 2008. The Department will accept comments from the public up to 30 days from July 21, 2008.

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

- Persons with access to the Internet may view this notice and provide comments by going to the regulations.gov Web site at: *http://www.regulations.gov/index.cfm.*
- *E-mail: jexchanges@state.gov.* You must include the RIN (1400–AC48) in the subject line of your message.
- *Mail* (paper, disk, or CD–ROM submissions): U.S. Department of State, Office of Exchange Coordination and Designation, SA–44, 301 4th Street, SW., Room 734, Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Director, Office of Exchange Coordination and Designation, U.S. Department of State, SA–44, 301 4th Street, SW., Room 734, Washington, DC 20547; or e-mail at *jexchanges@state.gov.*

SUPPLEMENTARY INFORMATION: On December 10, 2007, the Department of State published a Notice with request for comments to solicit views on the age eligibility requirement for au pair participants, an increase of the age limitation from 26 to 30, and whether to allow a foreign national who previously participated in the au pair program to repeat the program. A total of seven comments were received in response to the Notice. All seven comments were in favor of increasing the age requirement and permitting repeat participation. The au pair program is one of five work-based exchange opportunities available through the Exchange Visitor Program. These programs are targeted toward young adults aged 18–26. At this time, the Department believes the synergies of the program are enhanced by retaining its focus on participants in this age range.

On the other hand, as the result of repeat participation, au pair sponsors will be able to select from a larger pool of candidates. The Department has determined that an au pair who has successfully completed the au pair program may repeat program participation provided that he or she has resided outside the United States for a period of at least two years after the completion of initial participation in the au pair program (including the educational component requirement) and is within the regulatory age range for eligibility. An au pair who has previously participated is likely to be more familiar with the American culture (thereby quickly overcoming cultural challenges), is a proven successful caretaker, and will be able to build on the skills previously acquired.

Regulatory Analysis

Administrative Procedure Act

The Department has determined that this Final Rule involves a foreign affairs function of the United States and is consequently exempt from the procedures required by 5 U.S.C. 553 pursuant to 5 U.S.C. 553(a)(1). Nonetheless, because of its importance to the public, the Department elected to solicit comments during a 60-day comment period.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

Regulatory Flexibility Act/Executive Order 13272: Small Business

Since this rulemaking is exempt from 5 U.S.C. 553, and no other law requires the Department to give notice of proposed rulemaking, this rulemaking also is not subject to the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) and Executive Order 13272, section 3(b).

Executive Order 12866, as Amended

The Department of State does not consider this Final Rule to be a ''significant regulatory action'' under Executive Order 12866, as amended, § 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the Proposed Rule to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

Executive Order 12988

The Department has reviewed this Final Rule in light of §§ 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This Final Rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

Executive Orders 12372 and 13132

This Final Rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Paperwork Reduction Act

This Interim Final Rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 62

Cultural exchange programs, reporting and recordkeeping requirements.

■ Accordingly, 22 CFR Part 62 is revised to read as follows:

PART 62—EXCHANGE VISITOR PROGRAM

■ 1. The authority citation for part 62 is revised to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1184, 1258; 22 U.S.C. 1431–1442, 2451 *et seq.*; Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. 105–277, Div. G, 112 Stat. 2681 *et seq.*; Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp. p. 200; E.O. 12048 of March 27, 1978; 3 CFR, 1978 Comp. p. 168; the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. 104–208, Div. C, 110 Stat. 3009–546, as amended; Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT ACT), Pub. L. 107–56, Sec. 416, 115 Stat. 354; and the Enhanced Border Security and Visa Entry Reform Act of 2002, Pub. L. 107–173, 116 Stat. 543.

■ 2. Section 62.31 is amended by revising paragraph (p) to read as follows:

§ 62.31 Au pairs.

* * * * *

(p) *Repeat Participation.* A foreign national who enters the United States as an au pair Exchange Visitor Program participant and who has successfully completed his or her program is eligible to participate again as an au pair participant, provided that he or she has resided outside the United States for at least two years following completion of his or her initial au pair program.

Dated: June 5, 2008.

Stanley S. Colvin,

Director, Office of Exchange Coordination and Designation, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E8–13796 Filed 6–18–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS NASHVILLE (LPD 13) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective June 19, 2008 and is applicable beginning 11 June 2008.

FOR FURTHER INFORMATION CONTACT: Commander M. Robb Hyde, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone: 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706.

This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS NASHVILLE (LPD 13) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I paragraph 2(a)(i), pertaining to the height of the masthead light; Annex I paragraph 3(a), pertaining to the horizontal distance between the forward and after masthead lights; and Annex I, paragraph 2(g), pertaining to the distance of the sidelights above the hull. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

■ For the reasons set forth in the preamble, amend part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read:

Authority: 33 U.S.C. 1605.

■ 2. Table one of § 706.2 is amended by adding, in numerical order, the following entry for USS NASHVILLE (LPD 13):

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE ONE

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i) Annex I
*	*	*
USS NASHVILLE	LPD 13	4.38
*	*	*

■ 3. Table Four, Paragraph 19 of § 706.2, is amended by adding the following entry for USS NASHVILLE (LPD 13), to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Distance in meters of sidelights above maximum allowed height
USS NASHVILLE	LPD 13	5.37

■ 4. Table Five of § 706.2 is amended by revising the following entry for USS NASHVILLE (LPD 13), to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
*	*	*	*	*	*
USS NASHVILLE	LPD 13	—	N/A	X	54.7
*	*	*	*	*	*

Approved: June 11, 2008.

M. Robb Hyde,

Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).

[FR Doc. E8–13857 Filed 6–18–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–0523]

Drawbridge Operating Regulations; Sabine Lake, Port Arthur, TX

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the State Route 82 (SR 82) swing span bridge across Sabine Lake at mile 9.5 between Cameron Parish, Louisiana and Jefferson County, Texas. This deviation provides for the bridge to remain closed to navigation for 19 consecutive days to reverse the direction of the swing span to facilitate construction of a new replacement bridge adjacent to the existing swing span bridge.

DATES: This deviation is effective from 5 a.m. on Monday, July 7, 2008 until 5 a.m. on Saturday, July 26, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0523 and are available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, Room 1313, 500 Poydras Street, New Orleans, Louisiana 70130–3310 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, telephone (504) 671–2128.

SUPPLEMENTARY INFORMATION: The Texas Department of Transportation (TXDOT) has requested a temporary deviation in order to reverse the direction of the swing span of the SR 82 Bridge across Sabine Lake at mile 9.5 between Cameron Parish, Louisiana and Jefferson County, Texas. This procedure is necessary to prevent the swing span from conflicting with the footings and columns being placed for the new replacement bridge, currently under construction. This temporary deviation will allow the bridge to remain in the closed-to-navigation position from 5 a.m. on Monday, July 7, 2008 until 5 a.m. on Saturday, July 26, 2008. During the closure period, the draw will not be able to open for emergencies. Currently, the draw opens on signal; except that, from 9 p.m. to 5 a.m., the draw opens on signal if at least six hours notice is given to the Maintenance Construction Supervisor at Port Arthur.

Navigation on the waterway consists of tugs with tows and recreational powerboats and sailboats. The bridge provides 9 feet of vertical clearance in the closed-to-navigation position. Thus, smaller recreational vessels will be able to transit through the bridge when it is closed. Tugs with tows and sailboats will not be able to pass through the bridge during this closure. An alternate route is available through the north passage into Sabine Lake from Sabine Neches Canal by Stewts Island. Due to the availability of an alternate route, it has been determined that this closure will not have a significant effect on these vessels. This closure is considered necessary for placement of the new bridge pier footers, while allowing future operation of the swing span during subsequent phases of construction.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 10, 2008.

David M. Frank,

Bridge Administrator.

[FR Doc. E8–13865 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–0486]

Drawbridge Operation Regulations; Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, Hempstead, NY, Public Event

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Meadowbrook State Parkway Bridge across Sloop Channel at mile 12.8, at Hempstead, New York. Under this temporary deviation the bridge may remain in the closed position for 2½ hours to facilitate public safety during a public event, the Veterans Fireworks Display.

DATES: This deviation is effective from 9:30 p.m. through 11:59 p.m. on June 28, 2008 and in the case of rain, from 9:30 p.m. to 11:59 p.m. on June 29, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0486 and are available online at *http://www.regulations.gov.* They are also available for inspection or copying at two locations: the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The Meadowbrook State Parkway Bridge has a vertical clearance in the closed position of 22 feet at mean high water and 25 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR § 117.799(h)(2).

The waterway has seasonal recreational vessels and fishing vessels of various sizes.

The Town of Hempstead, Department of Public Safety, requested a temporary deviation to facilitate a public event, the Veteran's Fireworks Display on June 28, 2008.

Under this temporary deviation, in effect between 9:30 p.m. and 11:59 p.m. on June 28, 2008, the Meadowbrook State Parkway Bridge at mile 12.8, across Sloop Channel, may remain in the closed position. Vessels that can pass under the bridge without a bridge opening may do so at all times.

In the event of inclement weather on June 28, 2008, the deviation will be in effect on June 29, 2008, from 9:30 p.m. to 11:59 p.m., as a rain date.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 11, 2008.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E8–13863 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–0478]

Drawbridge Operation Regulations; LaLoutre Bayou, Yscloskey, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the State Route 46 (LA 46) Bridge across LaLoutre Bayou, mile 22.9, at Yscloskey, St. Bernard Parish, Louisiana. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This deviation will allow more efficient use of personnel by requiring a 2 hour notice for night time openings.

DATES: This deviation is effective from 8 p.m. on June 19, 2008 through 4 a.m. on December 16, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2008–0478 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online: http://www.regulations.gov.*

(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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this test deviation, call Kay Wade, Bridge Administration Branch, telephone 504–671–2128. 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:

Public Participation and Request for Comments

We encourage you to participate in this action 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. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number for this action (USCG–2008–0478), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend 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 we can contact you if we 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. We will consider all comments and material received during the comment period. We may change this proposed action in view of them.

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 action (USCG–2008–0478) in the Docket ID box, and click enter. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can 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 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.*

Background and Purpose

The LA 46 vertical lift span bridge, located on LaLoutre Bayou at mile 22.9, in Yscloskey, St. Bernard Parish, Louisiana, has a vertical clearance of 2 feet in the closed position and 53 feet in the open position. The bridge has a horizontal clearance of 45 feet. The draw of the LA 46 Bridge opens on signal as required by 33 CFR 117.5. However, the draw of the bridge has been inoperable since August 2005 due to damage sustained during Hurricane Katrina.

Historically, the waterway at the bridge site has been transited by recreational boaters and fishing vessels. However, there has been no navigational traffic through the bridge site since it was damaged in 2005.

Repairs to the bridge have been completed and the Louisiana Department of Transportation and Development (LDOTD) will soon reopen the bridge to navigation. LDOTD has requested a change to the drawbridge operation schedule in order to make more efficient use of operating resources, while accommodating the flow of vehicular traffic.

This deviation will test the following change to the drawbridge operation

schedule: The draw of the LA 46 Bridge, mile 22.9, at Yscloskey, shall open on signal; except that from 8 p.m. to 4 a.m., the draw shall open on signal if at least two hours notice is given.

A Notice of Proposed Rulemaking (USCG–2008–0478) will be issued to propose a permanent change to the schedule and obtain additional public comments. The Coast Guard will evaluate public comments from this Temporary Deviation and the above referenced Notice of Proposed Rulemaking to determine if a permanent special drawbridge operation regulation is warranted. The Coast Guard will review bridge tender logs for requested bridge openings during the time of the Temporary Deviation. Navigation is not expected to be impacted during the test schedule period.

Additional Information

Although this Temporary Deviation will require 2 hours advance notice for openings between 8 p.m. and 4 a.m., an alternate route, via Yscloskey Bayou, to the Mississippi River Gulf Outlet and Lake Borgne is available with no additional transit time. Additionally, most users of this waterway are able to give notice prior to transiting through the bridge. Vessels are not able to pass underneath the bridge when closed due to a vertical clearance of only 2 feet. Before the effective period, we will issue maritime advisories widely available to users of the waterway.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 9, 2008.

David M. Frank,

Bridge Administrator, U.S. Coast Guard.

[FR Doc. E8–13864 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–0480]

Drawbridge Operation Regulations; Piscataqua River, Portsmouth, NH, and Kittery, ME, Public Event

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Memorial (US 1) Bridge across the Piscataqua River at mile 3.5, between Portsmouth, New Hampshire and Kittery, Maine. Under this temporary deviation the bridge may remain in the closed position for one-hour during the Fourth of July fireworks display. This deviation is necessary to facilitate public safety during a public event.

DATES: This deviation is effective from 9:30 p.m. to 10:30 p.m. on July 3, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0480 and are available online at *http://www.regulations.gov*. They are also available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John McDonald, Project Officer, First Coast Guard District, at (617) 223–8364.

SUPPLEMENTARY INFORMATION: The Memorial (US 1) Bridge, across the Piscataqua River at mile 3.5, between Portsmouth, New Hampshire and Kittery, Maine, has a vertical clearance in the closed position of 11 feet at mean high water and 19 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.531.

The owner of the bridge, New Hampshire Department of Transportation, requested a temporary deviation to facilitate public safety during the Fourth of July fireworks display on July 3, 2008.

Under this temporary deviation the Memorial (US 1) Bridge may remain in the closed position from 9:30 p.m. to 10:30 p.m. on July 3, 2008. Vessels that can pass under the bridge without a bridge opening may do so at all times.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 10, 2008.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E8–13862 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–0485]

Drawbridge Operation Regulations; Hackensack River, Jersey City, NJ, Maintenance

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the NJTRO Lower Hack Bridge across the Hackensack River, mile 3.4, at Jersey City, New Jersey. Under this temporary deviation, the NJTRO Lower Hack Bridge may remain in the closed position for ten hours on two weekend days to facilitate scheduled bridge maintenance. Vessels that can pass under the draw without a bridge opening may do so at all times and vessels that need a bridge opening can do so by providing a two-hour advance notice. This deviation is necessary to facilitate upgrades to the control system at the bridge.

DATES: This deviation is effective from 7 a.m. through 5 p.m. on June 21, 2008 and June 22, 2008, and in case of rain, from 7 a.m. through 5 p.m. on June 28, 2008 and June 29, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0485 and are available online at *http://www.regulations.gov*. They are also available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gary Kassof, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The NJTRO Lower Hack Bridge, across the Hackensack River, mile 3.4, at Jersey City, New Jersey, has a vertical clearance in the closed position of 40 feet at mean high water and 45 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.723(b).

The bridge owner, New Jersey Transit Rail Operations (NJTRO), requested a temporary deviation to facilitate scheduled maintenance, upgrades to the control system at the bridge.

The waterway has seasonal recreational vessels, and commercial vessels of various sizes. All known waterway users were advised of the requested bridge closure period and offered no objection.

Under this temporary deviation the bridge may remain closed from 7 a.m. through 5 p.m. on June 21, 2008 and June 22, 2008, with a rain date of June 28, 2008 and June 29, 2008. Vessels able to pass under the closed draw may do so at any time and vessels that must have a bridge opening may do so by providing a two-hour advance notice by calling the bridge on VHF channels 13 or 16.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 11, 2008.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E8–13860 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–0477]

RIN 1625–AA–09

Drawbridge Operation Regulations; Intracoastal Waterway (ICW); Beach Thorofare, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Margate Bridge, at ICW mile 74, across Beach Thorofare at Margate, New Jersey. The deviation is necessary to sandblast, paint and make repairs to the bridge. This deviation allows the bridge to provide partial vessel openings.

DATES: This deviation is effective from 7 a.m. on October 1, 2008, to 11:59 p.m. on December 31, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0477 and are available online at *http://www.regulations.gov.* They are also available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mrs. Sandra S. Elliott, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6557.

SUPPLEMENTARY INFORMATION: The subcontractor on behalf of the Margate Bridge Company, who owns and operates this double-leaf bascule drawbridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.5 that requires the bridge to open promptly and fully for the passage of vessels when a request to open is given.

Margate Bridge, located at ICW mile 74, across Beach Thorofare at Margate, New Jersey, has a vertical clearance in the closed position to vessels of 14 feet above mean high water (MHW).

The Coast Guard reviewed the 2007 bridge logs provided by the Margate Bridge Company. The logs recorded approximately 79 vessel openings granted in October, 34 vessel openings granted in November and 4 vessel openings granted in December of last year.

Under this temporary deviation, the drawbridge will provide partial openings of the lift spans for vessels. The maintenance and repairs require immobilizing half of the draw span to single-leaf operation each day, beginning 7 a.m. on Wednesday, October 1, 2008, until and including 11:59 p.m. Wednesday, December 31, 2008, with a work barge occupying one-half of the 58-foot wide channel under the bridge, so passage through the bridge will be limited to a 29-foot width for the duration of the project. The opposite connecting span while not under repair will continue to open for vessels if at least a half-hour advance notice is given to the bridge tender at (609) 822–9175 or via marine radio on channel 13 VHF. Mariners requiring the full opening of the lift spans or the full width of the channel under the bridge will be directed to use the Atlantic Ocean as the alternate route between Absecon and Great Egg Harbor Inlets.

The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the partial openings of the draw span to minimize transiting delays caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 11, 2008.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. E8–13879 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0483]

RIN 1625–AA00

Safety Zone; World War II Beach Invasion Re-enactment, Lake Michigan, St. Joseph, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Michigan, St. Joseph, MI. This zone is intended to restrict vessels from a portion of Lake Michigan during a re-enactment of a World War II beach invasion. This temporary safety zone is necessary to protect event participants and spectator vessels and restrict spectators and other vessels from the re-enactment site.

DATES: This rule is effective from 8 a.m. to 2 p.m. on June 21, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0483 and are available online at *http://www.regulations.gov.* They are also available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin 53207, between 8:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on the temporary rule, call Lieutenant Commander Kimber Bannan, U.S. Coast Guard Sector Lake Michigan, Prevention Department, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin 53207, 414–747–7155. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This safety zone was implemented for an emergency situation and required immediate activation. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of event participants and spectators on Lake Michigan on June 21, 2008 during the re-enactment of World War II beach invasions. Establishing a safety zone to control vessel movement around the location of the re-enactment site will help ensure the safety of persons and property participating in the event as well as spectators and vessels transiting through the area.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of event participants and spectator vessels. The safety zone will be enforced from 8 a.m. to 2 p.m. on June 21, 2008. The safety zone will encompass all waters of Lake Michigan in the vicinity of Tiscornia Park in St. Joseph, MI beginning at 42°06′55″ N, 086°29′23″ W; then west/northwest along the north breakwater to 42°06′59″ N, 086°29′41″ W; then northwest 100 yards to 42°07′01″ N, 086°29′44″ W; then northeast 2,243 yards to 42°07′50″ N, 086°28′43″ W; then southeast to the shoreline at 42°07′39″ N, 086°28′27″ W; then southwest along the shoreline to the point of origin.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his on-scene representative. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

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.

This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zone's activation.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in a portion of Lake Michigan near Tiscornia Park in St. Joseph, MI from 8 a.m. to 2 p.m. on June 21, 2008.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic will only be limited for 4 hours and vessels can safely transit around the safety zone. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Lake Michigan to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about the rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive

Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that these special local regulations and fishing rights protection need not be incompatible. We have also determined that this Rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Nevertheless, Indian Tribes that have questions concerning the provisions of this Rule or options for compliance are encourage to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–0483 is added as follows:

§ 165.T09–0483 Safety Zone; World War II Beach Invasion Re-enactment, Lake Michigan, St. Joseph, MI.

(a) *Location.* The following area is a temporary safety zone: All waters of Lake Michigan in the vicinity of Tiscornia Park in St. Joseph, MI beginning at 42°06′55″ N, 086°29′23″ W; then west/northwest along the north breakwater to 42°06′59″ N, 086°29′41″ W; the northwest 100 yards to 42°07′01″ N, 086°29′44″ W; then northeast 2,243 yards to 42°07′50″ N, 086°28′43″ W; the southeast to the shoreline at 42°07′39″ N, 086°28′27″ W; then southwest along the shoreline to the point of origin.

(b) *Effective period.* This regulation is effective from 8 a.m. to 2 p.m. on June 21, 2008.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or his on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: June 9, 2008.

Bruce C. Jones,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. E8–13836 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0475]

RIN 1625–AA00

Safety Zones: Fireworks Displays in the Captain of the Port Puget Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The U.S. Coast Guard is establishing safety zones on the waters of the Puget Sound located in the Captain of the Port Puget Sound Zone during fireworks displays. This action is necessary to provide for the safety of life during these displays. Entry into, transit through, mooring, or anchoring within these zones is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

DATES: This regulation is effective from June 7, 2008 through July 6, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0475 and are available online at *http://www.regulations.gov*. They are also available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Waterways Management Division, Coast Guard Sector Seattle, 1519 Alaskan Way South, Seattle, WA 98134, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Petty Officer Stephen Knappe, U.S. Coast Guard Sector Seattle, Waterways Management Division, 206–217–6051. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of vessels and spectators gathering in the vicinity of the various fireworks launching barges and displays. If normal notice and comment procedures were followed, this rule would not become effective until after the dates of the events.

Under 5 U.S.C. 553(d)(3), the U.S. Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Making this rule effective less than 30 days after publication in the **Federal Register** is necessary to ensure safety of the vessels and spectators gathering in the vicinity of the various fireworks launching barges and displays on the dates and times this rule will be in effect.

Background and Purpose

The U.S. Coast Guard is establishing temporary safety zones to allow for safe fireworks displays. All events occur within the Captain of the Port, Puget Sound, WA, Area of Responsibility (AOR). These events may result in a number of vessels congregating near fireworks launching barges and sites. The safety zones are needed to protect watercraft and their occupants from safety hazards associated with fireworks displays. The Captain of the Port Puget Sound may be assisted by other federal and local agencies in the enforcement of these safety zones.

Discussion of Rule

This rule will control the movement of all vessels and persons in a regulated area surrounding the fireworks events indicated in this Temporary Final Rule. The safety zones do not extend on land.

The U.S. Coast Guard through this action intends to promote the safety of personnel, fireworks launching barges and sites. Entry into these zones by all vessels or persons will be prohibited unless authorized by the Captain of the Port. The Captain of the Port may be assisted by other federal, state, or local agencies as needed.

Regulatory Evaluation

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

Small Entities

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

The U.S. Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This temporary rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit a portion of the Puget Sound while this rule is enforced. These safety zones will not have significant economic impact on a substantial number of small entities for the following reasons. This temporary rule will be in effect for no more than 2.5 hours when vessel traffic volume is low. Traffic will be allowed to pass through these zones with the permission of the Captain of the Port or his designated representatives, and if safe to do so.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this temporary rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because it establishes a safety zone. A final ''Environmental Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapters 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A temporary section USCG–2008–0475 is added to read as follows:

§ 165.T13–034 Safety Zones: Fireworks displays in the Captain of the Port, Puget Sound.

(a) Safety Zones. The following areas are designated safety zones:

(1) Bay Liner Reunion, Roche Harbor, WA

(i) Location. All water of Roche Harbor extending out to a 400′ radius from the launch site at 48°36′40″ N 123°09′34″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on June 7, 2008.

(2) Poulsbo 3rd of July Fireworks Display, Liberty Bay, WA

(i) Location. All water of Liberty Bay extending out to a 500′ radius from the launch site at 47°44′56″ N 122°39′11″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 3, 2008.

(3) Deer Harbor Annual Fireworks Display, Deer Harbor, WA

(i) Location. All water of Deer Harbor extending out to a 500′ radius from the launch site at 48°37′10″ N 123°00′15″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 3, 2008.

(4) Boston Harbor Fireworks Display, Boston Harbor, WA

(i) Location. All water of Dana Passage extending out to a 300′ radius from the launch site at 47°08′31″ N 122°54′20″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 3, 2008.

(5) Friday Harbor Independence, Friday Harbor, WA

(i) Location. All water of Friday Harbor extending out to a 700′ radius from the launch site at 48°32′36″ N 123°00′28″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 4, 2008.

(6) Steilacoom Annual 4th of July Fireworks, Steilacoom, WA

(i) Location. All water of Steilacoom Bay extending out to a 1,300′ radius from the launch site at 47°10′24″ N 122°36′12″ W.

(ii) Effective time and date. 8 p.m. to 10:30 p.m. on July 4, 2008.

(7) Port Orchard 4th of July Fireworks, Port Orchard, WA

(i) Location. All water of Port Orchard extending out to a 1,000′ radius from the launch site at 47°32′53″ N 122°37′55″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 4, 2008.

(8) Yarrow Point Community 4th, Yarrow Point, WA

(i) Location. All water of Lake Washington extending out to a 400′ radius from the launch site at 47°39′45″ N 122°13′30″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 4, 2008.

(9) Port Angeles Chamber of Commerce, Port Angeles Bay, WA

(i) Location. All water of Port Angeles Bay extending out to a 400′ radius from the launch site at 48°07′02″ N 123°24′58″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 4, 2008.

(10) Lake Forest Park 4th of July, Bothell, WA

(i) Location. All water of Lake Washington extending out to a 400′ radius from the launch site at 47°45′07″ N 122°16′22″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 4, 2008.

(11) Three Tree Point Community, Three Tree Point, WA

(i) Location. All water of Puget Sound extending out to a 500′ radius from the launch site at 47°27′01″ N 122°23′09″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 4, 2008.

(12) City of Renton, Renton, WA

(i) Location. All water of Lake Washington extending out to a 400′ radius from the launch site at 47°29′59″ N 122°11′51″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 4, 2008.

(13) Port Townsend Sunrise Rotary, Port Townsend, WA

(i) Location. All water of Port Townsend extending out to a 500′ radius from the launch site at 47°44′56″ N 122°39′11″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 4, 2008.

(14) Vashon Island 4th of July, Quartermaster Harbor, WA

(i) Location. All water of Quartermaster Harbor extending out to a 1,300′ radius from the launch site at 47°24′00″ N 122°27′00″ W.

(ii) Effective time and date. 8:30 p.m. to 11 p.m. on July 4, 2008.

(15) Sheridan Beach Community Club, Lake Forest, WA

(i) Location. All water of Lake Washington extending out to a 300′ radius from the launch site at 47°44′47″ N 122°16′55″ W.

(ii) Effective time and date. 8:30 p.m. to 11 p.m. on July 4, 2008.

(16) City of Kenmore 4th of July, Kenmore, WA

(i) Location. All water of Lake Washington extending out to a 400′ radius from the launch site at 47°45′43″ N 122°15′50″ W.

(ii) Effective time and date. 8:30 p.m. to 11 p.m. on July 4, 2008.

(17) Fireworks Display, Henderson Bay, WA

(i) Location. All water of Henderson Bay extending out to a 700′ radius from the launch site at 47°21′48″ N 122°38′22″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 4, 2008.

(18) Kingston Fireworks Display, Kingston, WA

(i) Location. All water of Appletree Cove extending out to a 400′ radius from the launch site at 47°47′33″ N 122°29′55″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 4, 2008.

(19) Des Moines 4th of July, Des Moines, WA

(i) Location. All water of East Passage extending out to a 500′ radius from the launch site at 47°24′10″ N 122°20′05″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 4, 2008.

(20) Kirkland 4th of July, Kirkland, WA

(i) Location. All water of Lake Washington extending out to a 700′ radius from the launch site at 47°40′26″ N 122°12′56″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 4, 2008.

(21) 4th of July Display, Port Ludlow, WA

(i) Location. All water of Port Ludlow extending out to a 500′ radius from the launch site at 47°55′14″ N 122°41′11″ W.

(ii) Effective time and date. 8:30 p.m. to 11 p.m. on July 4, 2008.

(22) Grapeview Patriotic Event, Grapeview, WA

(i) Location. All water of Case Inlet extending out to a 800′ radius from the launch site at 47°19′17″ N 122°50′08″ W.

(ii) Effective time and date. 8:30 p.m. to 11 p.m. on July 4, 2008.

(23) 4th of July, Roche Harbor, WA

(i) Location. All water of Roche Harbor extending out to a 400′ radius from the launch site at 48°36′40″ N 123°09′34″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 4, 2008.

(24) Orcas Island Fireworks Display, Orcas, WA

(i) Location. All water of East Sound extending out to a 700′ radius from the launch site at 48°41′20″ N 122°54′28″ W.

(ii) Effective time and date. 9 p.m. to 11:30 p.m. on July 4, 2008.

(25) Langlies Old Fashioned Independence, Indianola, WA

(i) Location. All water of Admiral Inlet extending out to a 500′ radius from the launch site at 47°44′49″ N 122°31′32″ W.

(ii) Effective time and date. 8:30 p.m. to 11 p.m. on July 5, 2008.

(26) Olele Point Patriotic Celebration, Port Ludlow, WA

(i) Location. All water of Admiral Inlet extending out to a 800′ radius from the launch site at 47°58′22″ N 122°41′18″ W.

(ii) Effective time and date. 7 p.m. to 9:30 p.m. on July 5, 2008.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, no vessel may enter, transit, moor, or anchor within these safety zones, except for vessels authorized by the Captain of the Port or his designated representatives.

(c) *Enforcement Period.* This rule is effective from 8 a.m. on June 7, 2008 until 8 a.m. on July 6, 2008 unless cancelled sooner by the Captain of the Port.

Dated: June 5, 2008.

Stephen P. Metruck,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. E8–13835 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0487]

RIN 1625–AA00

Temporary Safety Zone: Arlington Chamber of Commerce Fireworks Display, Arlington, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Arlington Chamber of Commerce Fireworks Display to be held on the waters of the Columbia River in the vicinity of Arlington's waterfront in Arlington, Oregon. The safety zone will restrict vessels from entering the designated area during the fireworks display. This temporary rule is needed to provide for the safety of life on navigable waters during the event.

DATES: This regulation is effective from 8:30 p.m. to 11:30 p.m. on June 28, 2008, unless canceled earlier through a broadcast notice to mariners. The Captain of the Port Portland is taking this action to safeguard individuals and vessels.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0487 and are available online at *http://www.regulations.gov*. They are also available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and Coast Guard Sector Portland, 6767 N. Basin Ave., Portland, OR 97217 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: BM2 Joshua Lehner, c/o Captain of the Port Portland, 6767 N. Basin Ave, Portland, OR 97217–3992, and (503) 240–9311.

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The emergent and dynamic nature of the event did not allow previous notice. Publishing a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of vessels and spectators. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event. For this reason, following the normal rulemaking procedures in this case would be impracticable and contrary to the public.

Background and Purpose

The Coast Guard is establishing a temporary safety zone to allow for a safe fireworks display. This event occurs on the Columbia River in the vicinity of Arlington's waterfront, Arlington, Oregon and is scheduled to start at 8:30 p.m. and last until 11:30 p.m. on June 28, 2008. This event may result in a number of recreational vessels congregating near the fireworks display. The firework display poses several dangers to the public including excessive noise, falling firework debris and possible explosion. Accordingly, the Safety Zone is needed to protect watercraft and their occupants from safety hazards associated with the event. This safety zone will be enforced by representatives of the Captain of the Port Portland. The Captain of the Port may be assisted by other federal, state, and local agencies.

Discussion of Rule

This temporary rule will create a safety zone to assist in minimizing the inherent dangers associated with fireworks display. These dangers include, but are not limited to, excessive noise, falling firework debris and possible explosion. The Coast Guard, through this action, intends to promote the safety of personnel, vessels, and facilities in the area. Due to these concerns, public safety requires these regulations to provide for the safety of life on the navigable waters.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The Coast Guard expects the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This expectation is based on the fact that the safety zone established by this rule encompasses an area on the Columbia River near Arlington's Waterfront in Arlington, OR rarely frequented by commercial navigation or public boating. This regulation is established for the benefit and safety of the recreational boating public, and any negative recreational boating impact is offset by the benefits of allowing the fireworks display. This rule will be enforced from 8:30 p.m. to 11:30 p.m. on June 28, 2008. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Columbia River during the time mentioned under *Background and Purpose*. This safety zone will not have a significant economic impact on a substantial number of small entities due to its short duration and small area. The only vessels likely to be impacted will be recreational boaters, small passenger vessel operators and commercial barge operators. Because the impacts of this proposal are expected to be so minimal, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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

Collection of Information

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

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this 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 have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because it establishes a safety zone. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A temporary section in 165.T13–037 is added to read as follows:

165.T13–037 Safety Zone; Arlington Chamber of Commerce Fireworks Display, Arlington, Oregon.

(a) *Location.* The following area is a safety zone: The waters of the Columbia River from surface to bottom, encompassed by lines connecting the following points: from the southern bank of the Columbia River to latitude 45°43′29″ N, longitude 120°12′12″ W, thence to 45°43′31″ N, 120°12′06″ W, thence to the southern shoreline located at 45°43′26″ N, 120°12′02″ W in the vicinity of Arlington's waterfront on the Columbia River in Arlington, Oregon at river mile 243.

(b) *Enforcement period.* This rule will be in effect from 8:30 p.m. to approximately 11:30 p.m. on June 28, 2008 in the described waters of the Columbia River in Arlington, Oregon.

(c) *Regulations.* In accordance with the general regulations in Section 165.23 of this part, no person or vessel not participating in the actual fireworks display may enter or remain in this zone unless authorized by the Captain of the Port or his designated representatives. Vessels and persons granted authorization to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or his designated representatives.

(d) Vessels wishing to request permission to enter the safety zone may contact the official patrol on VHF Channel 16 or by calling 503–240–9311.

Dated: June 6, 2008.

F.G. Myer,

Captain, U.S. Coast Guard, Captain of the Port Portland.

[FR Doc. E8–13834 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of Implementation Plans

CFR Correction

In title 40 of the Code of Federal Regulations, part 52 (§§ 52.01 to 52.1018), revised as of July 1, 2007, on page 250, in § 52.229, in paragraph (c), in the first sentence, remove the word ''anderfere'' and replace it with the words ''and no analysis has been

presented to show that this rescission will not interfere''.

[FR Doc. E8–13916 Filed 6–18–08; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 79

Registration of Fuels and Fuel Additives

CFR Correction

In title 40 of the Code of Federal Regulations, parts 72 to 80, revised as of July 1, 2007, on page 604, in § 79.68, paragraph (f)(5)(vii) is reinstated to read as follows:

§ 79.68 *Salmonella typhimurium* reverse mutation assay.

* * * * *

(f) * * *

(5) * * *

(vii) Dose-response relationship, if applicable.

* * * * *

[FR Doc. E8–13913 Filed 6–18–08; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 080302357–8703–01; I.D. 030905A]

RIN 0648–AT79

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Explosive Removal of Offshore Structures in the Gulf of Mexico

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

ACTION: Final rule.

SUMMARY: NMFS, upon application from the Minerals Management Service (MMS), is issuing regulations to govern the unintentional takings of small numbers of marine mammals incidental to explosive severance activities at offshore oil and gas structures in the Gulf of Mexico (GoM). Issuance of regulations, and Letters of Authorization (LOAs) under those regulations, governing the unintentional incidental takes of marine mammals in connection with particular activities is required by the Marine Mammal Protection Act (MMPA) when the Secretary of Commerce (Secretary), after notice and opportunity for comment, finds, as here, that such takes will have a negligible impact on the affected species or stocks of marine mammals and will not have an unmitigable adverse impact on their availability for taking for subsistence uses, and if the Secretary sets forth the permissible methods of taking and other means of effecting the least practicable adverse impact on affected marine mammal species or stocks and their habitat, and on the availability of such species or stocks for subsistence uses.

These regulations do not authorize offshore structure removal activities as such authorization is not within the jurisdiction of the Secretary. Rather, NMFS' regulations together with LOAs authorize the unintentional incidental take of marine mammals in connection with this activity.

DATES: Effective from July 21, 2008 through July 19, 2013.

ADDRESSES: A copy of the MMS application containing a list of the references used in this document may be obtained by writing to Mr. P. Michael Payne, Chief Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, by telephoning one of the contacts listed under **FOR FURTHER INFORMATION CONTACT**, or at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

Documents cited in this final rule may also be viewed, by appointment, during regular business hours (M-F, 8 a.m. until 4:30 p.m., except Federal holidays) at this address.A copy of MMS' Programmatic Environmental Assessment (PEA) is available on-line at: *http://www.gomr.mms.gov/homepg/regulate/environ/nepa/2005-013.pdf*.

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this rule should be sent to NMFS via the means stated above, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, DC 20503, *David_Rostker@eap.omb.gov*.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, NMFS, at 301–713–2289, ext 128 or *Ken.Hollingshead@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

An authorization will be granted for periods of 5 years or less if the Secretary finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses, and if regulations are prescribed setting forth the permissible methods of taking and other means of effecting the least practicable adverse impact (i.e., mitigation) the requirements pertaining to the monitoring and reporting of such taking.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Summary of Request

On February 28, 2005, NMFS received an application from MMS (MMS, 2005a) requesting, on behalf of the offshore oil and gas industry, authorization under section 101(a)(5)(A) of the MMPA to take marine mammals by harassment incidental to explosive severance activities at offshore oil and gas structures in the GoM outer continental shelf (OCS). Except for certain categories of activities not pertinent here, the MMPA, 16 USC 1362(18)(A), defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Description of the Activity

During exploration, development, and production operations for mineral extraction in the GoM OCS, the seafloor around activity areas becomes the repository of temporary and permanent equipment and structures. In compliance with OCS Lands Act (OCSLA) regulations and MMS guidelines, operators are required to remove or ''decommission'' seafloor obstructions from their leases within

one year of lease termination or after a structure has been deemed obsolete or unusable. To accomplish these removals, it is necessary to (1) mobilize necessary equipment and service vessels, (2) prepare the decommissioning targets (e.g., piles, jackets, conductors, bracings, wells, pipelines, etc.), (3) sever the target from the seabed and/or sever it into manageable components, (4) salvage the severed portion(s), and (5) conduct final site-clearance verification work.

There are two primary methodologies used in the GoM for cutting decommissioning targets; nonexplosive and explosive severance. Nonexplosive methods include abrasive cutters (sand and abrasive-water jets), mechanical cutters (e.g., carbide or rotary), diamond wire cutting devices, and cutting facilitated by commercial divers using arc/gas torches. Though relatively time-consuming and potentially harmful to human health and safety (primarily for diver severances), nonexplosive-severance activities have little or no impact on the marine environment and would not result in an incidental take of marine mammals (MMS, 2005b (the MMS Final PEA)). A description of non-explosive severing tools and methods can be found in both MMS, 2005a; and MMS, 2005b (see **ADDRESSES**).

Explosive-severance activities use specialized charges to achieve target severance. Severance charges can be deployed on multiple targets and detonated nearly simultaneously (i.e., staggered at an interval of 900 msec), effecting rapid severance. Coupled with safe-handling practices, the reduced ''exposure time'' and omission of diver cutting also makes explosive severance safer for offshore workers. However, since the underwater detonation of cutting charges generates potentially damaging pressure waves and acoustic energy, explosive-severance activities have the potential to result in incidental take of nearby marine mammals. For this reason, MMS has requested an incidental take authorization governing explosive-severance activities conducted under OCSLA structure decommissionings.

Decommissioning operations conducted under OCSLA authority can occur on any day of a given year. Operators often schedule most of their decommissionings from June to December (approximately 80 percent) to take advantage of the often calm seas and good weather and the time period when structure installations tend to decrease.

Depending upon the target, a complete decommissioning operation may span several days or weeks, of which only a few seconds is actually attributed to the explosive-severance activity or ''detonation event'' for most removal targets (even those with multiple severances) because of charge staggering. For complex targets or in instances where the initial explosive-severance attempts are unsuccessful, more than one detonation event may be necessary per decommissioning operation. Even though hours or days may pass to allow for necessary mitigation measures and redeployment of new charges, each detonation event would similarly last only for a few seconds.

During the 10–year period from 1994–2003, there were an average of 156 platform decommissionings per year, with over 60 percent involving explosive-severance activities (see Table 4 in MMS, 2005a). In addition to historical activity averages, many of the older, nominally-producing structures in the mature GoM oil fields are nearing decommissioning age; this will result in an increase in removal operations in future years. Despite advancements in nonexplosive-severance methods and the additional requisite marine protected species mitigation measures, MMS expects explosive-severance activities to continue for at least 63 percent of all platform removals for the foreseeable future. (See Appendix A of MMS; Final PEA for additional forecasting information).

In addition to platform removals, based upon a review of the historical trends, industry projections, and recent forecast modeling, MMS estimates that between 170 and 273 explosive well-severance activities would occur annually over the next 5 years (see Table 7 in MMS' MMPA Application).

Comments and Responses

On April 7, 2006 (71 FR 17790), NMFS published a proposed rule on the taking of marine mammals incidental to offshore structure removals. During the 30–day public comment period on the proposed rule, comments were received from the Marine Mammal Commission (Commission), the Gulf Restoration Network (GRN), the American Petroleum Institute and the National Ocean Industries Association (API/NOIA), LIS Energy Services (LIS), Offshore Operators Committee, DEMEX, Newfield Exploration Company, and Explosive Service International. The comments of these organizations and the specific recommendations by the Commission are addressed next.

Activity Concerns

Comment 1: The GRN notes that the Government Accounting Office (GAO) found that 192 of 570 OCS oil and gas structures were removed by non-explosive methods between 1987 and 1992. GRN believes that serious consideration of the use of non-explosive removal techniques would eliminate potential negative impacts to marine mammal populations and should be required before companies are allowed to use explosive techniques.

Response: The use of non-explosive methods for offshore oil-and-gas structure removals was fully discussed in MMS' Final PEA and cited supporting documentation on this matter. MMS determined that, between 1994 and 2003, an average of 156 platforms were removed annually. Of that total, on average 58 platforms were removed annually by non-explosive methods (37 percent). While NMFS encourages operators to use non-explosive methods whenever feasible and practical, NMFS and MMS recognize that the use of nonexplosive methods leads to greater human health and safety concerns, primarily because (1) divers are often required (for torch/underwater arc cutting), (2) more personnel are required to operate cutting equipment (increasing the risk of injury), (3) lower success rates require that additional cutting attempts be made, and (4) cutters can only sever one target at a time, taking on average 30 minutes to several hours for a complete cut. Considering the low level of impact on affected marine mammal stocks by this activity and the inherent safety risk of using non-explosive methods, NMFS has determined that the structure removal operator needs the flexibility to determine the best method for a structure-removal operation.

Comment 2: The GRN states that the GAO found that the costs and benefits of these alternative methods of removal had not been adequately studied and that the MMS may have encouraged the use of explosives as the preferred method of removal.

Response: In response to a requirement in NMFS' 1995 rulemaking on this matter (60 FR 53753, October 17, 1995), MMS contracted for a study to be conducted on the operational and socioeconomic impacts of non-explosive removal of offshore structures. The information in that report (Twachtmann Synder and Byrd and Center for Energy Studies, 2003) was subsequently incorporated into the MMS PEA. A copy of that report is available via written request to NMFS (see **ADDRESSES**) or on MMS' website at: *http://www.gomr.mms.gov/PDFs/2004/2004-074.pdf*.

Marine Mammal Impact Concerns

Comment 3: While the Commission supports NMFS' preliminary determinations and supports the various proposed mitigation and monitoring activity scenarios, the Commission recommends NMFS clarify the apparent discrepancies between the numbers and species of animals requested by MMS to be taken by Levels A and B harassment versus the numbers and species proposed to be authorized by NMFS in its preamble to the proposed rule and in the proposed rule itself. NMFS estimates that one bottlenose dolphin would be taken by Level A harassment and up to 457 marine mammals of 28 species by Level B harassment. This differs from MMS' request for 5 bottlenose dolphins, one Atlantic spotted dolphin and one pantropical spotted dolphin by Level A harassment over the 5–year period of the proposed regulations and up to 457 marine mammals annually of the following species by Level B harassment: 227 bottlenose dolphins, 65 Atlantic spotted dolphins, 77 pantropical spotted dolphins, 27 Clymene dolphins, 12 rough-toothed dolphins, 14 striped dolphins, 15 melon-headed whales, 10 pilot whales, 5 spinner dolphins, 3 Risso's dolphins, and 2 sperm whales.

Response: NMFS has amended the preamble to this document and the regulations to conform with the request of the MMS, which is based on a clear analysis for projected incidental harassment takes provided in its application.

Comment 4: The Commission recommends that NMFS evaluate and discuss the potential for cumulative indirect effects on marine mammals that could result from the disturbance of hazardous substances that accumulate around production platforms. Disturbance of sediments during decommissioning may release these hazardous substances into the water column where they could enter and potentially affect the food chain up to top-level predators, including marine mammals.

Response: The disturbance of sediments during decommissioning activities is discussed in the MMS' Final PEA on structure removals. The MMS Final PEA notes that resuspension of sediments would be limited in both time and space (24 hr for a water column 4 m (13 ft) off the bottom and above, and 7–10 days for the water layer contained in the first 4 m (13 ft) off the seafloor). Resuspension of sediments would extend about 1000 m (3281 ft) away from the structure. The MMS Final PEA notes:

> Increased water turbidity and mobilization of sediments containing drilling muds and cuttings are both likely due to resuspension of bottom sediments following an explosive severance activity or structure salvaging. The magnitude and extent of sediment resuspension will depend on the hydrographic parameters of the area, the location of removal (above or below mud-line), and the size and composition of the bottom sediments. The impacts to water quality from resuspension of hydrocarbon wastes is expected to be temporary and limited to the immediate, localized structure removal site. Due to the temporary nature of water quality changes following decommissioning activities, no significant impacts to fish, marine mammals or sea turtle resources are expected.

For cumulative impacts, that document states:

> Based on the cumulative impact scenarios and assessments presented in the multi-sale EIS's, it is expected that the incremental contribution of potential impacts from decommissioning activities (i.e., vessel discharges, re-suspended sediments, and expended explosive/nonexplosive-severance products) would not result in significant cumulative impact on the water quality of the Gulf of Mexico OCS.

Based on the information in the MMS Final PEA, NMFS believes it very unlikely that there will be significant cumulative effects from resuspension of bottom sediments due to explosive structure removals on marine mammals.

Comment 5: The API/NOIA note that the ''safe'' peak pressure level to avoid physical injury recommended by Ketten (1995) is 100 psi (237 dB re 1 microPa, or about 212 dB re 1 microPa^2–s). The preamble to the proposed rule states that Level A harassment is assumed to occur at an energy flux density value of 1.17 in-lb/in^2 (which is about 205 dB re 1 microPa^2–s). There appears to be a discrepancy in the dB values quoted as ''safe'' versus that at which Level A harassment occurs.

Response: Estimating impacts to marine mammals from underwater detonations is difficult due to complexities of the physics of explosive sound under water and the limited understanding with respect to hearing in marine mammals. Compounding to the difficulty, NMFS understands that Ketten (1995) contains air-to-water conversion errors. For injury, NMFS uses two criteria: eardrum rupture (i.e., tympanic membrane [TM] rupture) and onset of slight lung injury, whichever is more conservative. In most cases, TM rupture is more likely at lower pressures and is used for this action to indicate the onset of injury. The threshold for TM rupture corresponds to a 50 percent rate of rupture (i.e., 50 percent of animals exposed to the level are expected to suffer TM); this is stated in terms of an energy flux density (EFD) value of 1.17 in-lb/in^2 (approximately 205 dB re 1 Pa^2–s). This recognizes that TM rupture is not necessarily a serious or life-threatening injury, but is a useful index of possible injury that is well-correlated with measures of permanent hearing impairment (e.g., Ketten (1998) indicates a 30 percent incidence of permanent threshold shift [PTS] at the same threshold). Ketten (1998) also found that peak blast overpressures of 1,034 kPa (150 psi) were associated with 50 percent tympanic membrane rupture. Based on the incidence of eardrum rupture in sheep exposed to underwater explosions by Richmond *et al.* (1973), Craig (2001) estimated that 50 percent tympanic membrane rupture would occur at an energy flux density of 1.17 in-lb/in^2 (about 205 dB re 1 microPa^2–s). While this latter criterion is more conservative than the 100 psi (237 dB re 1 Pa) derived by Ketten (1995), it was used in the WINSTON CHURCHILL ship shock trial Final EIS as the criterion for auditory injury, and is used by MMS and NMFS in this action based on the CHURCHILL findings (see 66 FR 22450, May 4, 2001).

Comment 6: The API/NOIA note that MMS and NMFS are adopting ''without modification'' NMFS' acoustic criteria (for explosives) because they are conservative. To confirm the conservative nature of these values, they are contrasted in the same paragraph with much higher values reported by Finneran *et al.* (2003) for experimental exposures of a single bottlenose dolphin. This adoption of ''conservative'' criteria becomes compounded by other conservative assumptions used in subsequent discussions.

Response: NMFS agrees that the dual criteria of a 12–psi peak pressure and a received energy greater than 182 dB re 1 microPa^2–s within any 1/3–octave band are conservative. The research mentioned by API/NOIA (Finneran *et al.*, 2003) was completed after the Navy released the WINSTON CHURCHILL Final EIS and MMS finished modeling the impacts from explosives on marine mammals (incorporated into the MMS Draft PEA). Therefore, unavailable for use without incurring a significant delay by MMS in completing the Final PEA. NMFS intends to utilize any new empirical research prior to renewal of these new 5–year regulations.

Comment 7: The API/NOIA notes that NMFS' conservative criteria derive from open water detonations of a 10,000 lb charge in open water used for the WINSTON CHURCHILL shock trial. ''Conservative'' safety zones based on

the CHURCHILL shock trial and propagation models based on similar charge weight and placement assumptions for structure removals, grossly overestimates impacts from structure removal activities (which are much smaller charges).

Response: NMFS disagrees. The criteria used to determine the safety zones for the WINSTON CHURCHILL shock trial safety zones were the same criteria used for the structure removal program; however, the safety zones established for each activity were based on their respective explosive weight (10,000 lbs (4536 kg) for the CHURCHILL shock trial versus less than 500 lbs (227 kg) for this action). In the shock trial program, the Navy uses its REFRMS model to estimate zones of impact while MMS used the UnderWater Calculator (UWC), which is a verified model that predicts the detonation pressure/energy propagation resulting from underwater detonations, that is capable of propagation modeling for explosives contained within pipes of varying diameters and wall thicknesses. The integration of the UWC model with Marine Acoustics Inc.'s Acoustic Integration Model (AIM) made it possible to perform comprehensive, 3–dimensional modeling of the effects of explosive-removal activities on marine mammals. For more information, please refer to Chapter 4 of the MMS Final PEA.

The Navy recently released a new Draft EIS for the shock trial of the USS MESA VERDE (for a copy go to *http://www.mesaverdeeis.com*), which contains slightly modified explosives criteria based on explosives research completed since the WINSTON CHURCHILL Final EIS was released. These new criteria may be used by MMS and NMFS in future explosive removal regulations.

Comment 8: The API/NOIA asks for the source of the criterion for Level A harassment definition as tympanic membrane rupture and lung hemorrhage in a 27 lb. (12.2 kg) dolphin calf. How did this criteron become adopted by NMFS?

Response: As noted in the MMS Final PEA (page 103–104), the source for the calf criterion is Young (1991). Young used the results from experimental data on terrestrial animals to develop a computer simulation model for determining the region of injury to marine mammals subjected to an underwater explosion. For a 50–lb (22.7 kg) explosive charge, the model's contour plot indicated that slight injury could occur 936 ft (285.3 m) and 1,352 ft (412.1 m) from the explosion in open water for an adult and calf bottlenose dolphin, respectively. Because the more conservative criterion was for the calf, that was the criterion used. This reference was first cited for offshore structure removals in API's 1995 application for taking marine mammals incidental to this activity.

Proposed Rule Concerns

Comment 9: DEMEX recommends that sound energy flux and sound pressure level (SPL) should be referenced in their common scientific format of units (i.e., decibels, dB). For example, Level A harassment should be stated as: an energy flux density of above 205 dB re 1 microPa^2–sec in any 1/3 octave band and Level B harassment is an EFDL (energy flux density level) above 182 dB re 1 microPa^2–sec in any 1/3 octave band. Both are unnecessary as SPL is an inherent component of the Energy Flux Density. SPLs are an instantaneous reference and do not reflect intensity or duration. EFDL values readily give a true description of the sound event and potential harm that may be caused.

Response: NMFS believes that the EFDL concept is unfamiliar to many of the reviewers of underwater acoustics authorizations under the MMPA. Accordingly, NMFS has provided both SEL and SPL units where possible.

Comment 10: DEMEX notes that the proposed rule does not have a provision to handle emergency situations such as for human safety and weather. DEMEX recommends a provision within the rule that would allow detonation of an explosive device because of weather or safety to personnel, and even leaving the project with explosives still on location.

Response: Leaving the charge unexploded in place is unlikely to result in the taking of marine mammals so a provision in NMFS' regulations is not necessary. The regulations do not allow for the take of marine mammals incidental to use of explosives absent the necessary mitigation and monitoring requirements. The industry did not provide documentation during the public comment period on the NMFS Notice of Receipt on this action or on the MMS PEA substantiating that an exception, due to weather or safety, was necessary. Since industry has not provided any information on the processes, conditions, or protocols by which ''emergency detonation'' should be allowed, NMFS has determined that exceptions to required mitigation and monitoring are not warranted at this time.

Comment 11: DEMEX notes that the proposed rule does not have a provision for shooting internal strings within oil wells. DEMEX believes that small scale shooting of internal strings will not have any effect on the environment. However, this particular process is used during plugging and abandonment (P&A) activities that are not governed by the proposed regulations.

Response: Since P&A activities related to ''downhole'' casing work or perforation guns generally employ very small charges detonated several dozen to hundreds of feet below the mudline, NMFS does not believe that the activity will have an impact on marine mammals or result in incidental take. Therefore, the activities need not be governed by these regulations. However, if any P&A activities involve the explosive severance of internal strings as it relates to a subsequent conductor or well-stub severance, they may occur close enough to the mudline and utilize enough explosives to have the potential to harm marine mammals. In these cases, MMS' environmental review procedures for structure removal permit applications or Applications for Permit to Modify (APMs) for P&A work are designed to analyze the severance activities and proscribe the appropriate level of mitigation measures for marine protected species.

Comment 12: DEMEX asks who is required to have an LOA? Is it the structure operator, the primary removal contractor, the explosives contractor, or some combination of these? API/NOIA recommends that as a practical matter it would be prudent to require that the person-in-charge of explosive operations have a copy of the appropriate LOA available for inspection on site.

Response: An LOA should be held by either the company responsible for the offshore structure or the contractor hired by the company to remove the structure. However, the entity holding the LOA needs to have onsite representation to ensure that the requirements of the LOA and these regulations are carried out.

Comment 13: DEMEX notes that Table 2 (in the preamble of the proposed rule) for the Small Blasting Category, >10–20 lbs, BML (Below Mudline) is a B1 & B2 Scenario which requires a helicopter survey. DEMEX believes it would be more of an incentive for explosive shaped charges if the helicopter survey was not required.

Response: The MMS and NMFS protected species scientists determined that aerial surveys would be necessary to ensure protection, to the maximum extent practicable, of marine mammals and sea turtles for all scenarios using explosives greater than 10 lbs (4.5 kg) BML. The impact zone for the B1 and B2 Scenarios (10–20 lbs/4.5–9.1 kg) is 373 m (1,224 ft), an additional 112 m

(367 ft) beyond the 261 m (856 ft) impact zone projected for charges less than 10 lbs. This information was presented to participants at the Explosive-Severance Mitigation Workshop hosted by MMS' GoM Region in May 2004. MMS incorporated this mitigation measure into its Draft PEA and its MMPA application, both of which were released for public review and comment. As DEMEX did not raise significant concerns regarding this issue at either the 2004 workshop or during the comment periods for the Draft PEA, and NMFS' notice of receipt of MMS' application, NMFS does not believe a modification at this stage of the action is warranted until improved survey techniques are proposed and/or additional acoustic data is collected.

Comment 14: The API/NOIA states that under the proposed regulations, many important requirements for individual explosive removal activities will be specified in LOAs. This approach offers great flexibility in tailoring requirements to conditions unique to individual or classes of activities; however, it also underscores the need to address concerns discussed previously by the industry.

Response: Requirements for the mitigation, monitoring and reporting the effects of explosive removal of offshore structures are contained in the regulations, not in the LOAs. The appropriate mitigation and monitoring requirements have been standardized depending upon a number of factors. As a result, NMFS does not believe that it is necessary to repeat this information in LOAs.

If an operator desires a variance from the regulations in its LOA application, it must provide information in its LOA application (or a revision to the original application) supporting that variance and analyzing impacts of that change. LOA modifications may require a 30–day public review and comment period prior to issuance of an LOA. As a result, applicants would need to provide sufficient time for this review before undertaking the activity.

Comment 15: The API/NOIA believes that further clarification of the phrase ''cooperate with NMFS and any other Federal, state or local agency monitoring the impacts of the activity on marine mammals'' is needed. Also this requirement should be limited to agencies with appropriate regulatory authority and should acknowledge the responsibility of the operator for the safety of the operations and personnel engaged in or observing such operations.

Response: This concern has been raised in other regulatory actions previously. As a result, NMFS has recently modified the ''cooperation'' requirement to clarify that it is limited to Federal, state, or local agencies with regulatory authority over the subject activity. It is unnecessary for NMFS to make any statements in regard to who is responsible for operational safety concerns.

Mitigation and Monitoring Concerns

Comment 16: The GRN states that the requirement for the use of shipboard visual observers is not sufficiently protective of whales. Submerged whales are not very visible at the surface. This is particularly true of sperm whales, which may dive for up to two hours, but routinely dive between 30 and 60 minutes. Under these circumstances, the use of visual observers is potentially ineffective in avoiding impacts. In order to ensure that impacts to whales, particularly sperm whales, are minimized, visual monitoring of an impact zone must be coupled with passive acoustic monitoring (PAM) systems.

Response: In addition to shipboard monitoring, aerial monitoring and PAM are required in slope waters where sperm whales and several other deep-diving marine mammals are more likely to be found than in shelf waters. In shelf waters, where bottlenose and spotted dolphins predominate, PAM is not a requirement, but aerial monitoring is required for all detonations greater than 10 lbs (4.5 kg).

Comment 17: The API/NOIA and DEMEX note that it is very difficult to identify species or to determine ranges and direction to those animals by use of passive acoustics. The detection is of no practical value for protecting these animals if their proximity to impact zones cannot be determined. Therefore, it is premature to require deployment of such a developmental tool. The problems associated with its use include: (1) inability to determine direction of the marine mammal's location, (2) inability to determine distance to the marine mammal, (3) passive acoustics only work when the marine mammal is vocalizing, and (4) there are no NMFS-approved acoustic monitoring instruments or operators.

Response: Despite the identification, range, and bearing limitations, PAM surveys would be able to indicate if a vocalizing marine mammal is in the vicinity of the severance activities; therefore, used in conjunction with simultaneous surface and aerial observations, PAM will assist the observers and focus their attention for possible sightings.

Comment 18: The Commission recommends NMFS encourage the MMS, in cooperation with the industry and acoustic consultants, to continue to collect on-site data from explosive severance activities for comparison with, and verification of, model predictions of the impacts of explosive severance activities.

Response: The MMS has a new acoustic measurement program approved through their Technology Assessment & Research (TA&R) Program. Information on the project can be found at: *http://www.mms.gov/tarprojects/570.html*. The MMS expects to conduct the measurement activities during future decommissioning season(s). Data recorded during the on site exercises will be used for verification of existing models and similitude equations, which will be essential for improving future mitigation measures.

Comment 19: Industry representatives (API/NOIA/DEMEX) state that the UWC has not been calibrated against field measurements of acoustic and pressure emissions from actual structure removal detonations. Based on limited on site data collected by Connor and MMS, it appears that the UWC overestimates the distances from detonations at which acoustic and peak pressure limits are reached by at least 4 times. Safety zones based on the UWC are thus extremely conservative and may have the effect of diluting the intensity of the monitoring in the much smaller areas where the real impacts could occur. Though NMFS discounts these and other *in-situ* measurements due to imprecise location or malfunction, industry feels they represent the best available ''affirmation'' that the UWC greatly overestimates impact ranges in the far field by a factor of three or more. Future field measurements should be integrated into the model as they become available.

Response: The impact ranges developed using the UWC were discussed at the 2004 Explosive-Severance Mitigation Workshop and are contained in MMS' Final PEA. As detailed in the MMS' PEA, Appendix E (Page E–4), MMS utilized in-situ data collected from TAR Project No. 429 to help verify that the UWC could be used for incorporating the attenuation effects for BML detonations. It also determined that the impact ranges projected by the UWC were conservative and would be highly-protective for marine mammals and sea turtles when used in survey mitigation parameters. NMFS does not agree that monitoring effectiveness will be diluted with the establishment of these conservative monitoring zones. Monitoring zones range from 261 m (856

ft) for very small charges up to 1528 m (5012 ft) for large specialty charges. With monitoring times for the stationary surface observer(s) ranging from 60–180 minutes and for the aerial survey of 30–90 minutes, NMFS believes that all impact zones will be adequately monitored prior to detonation.

New measurement activities under TAR Project No. 570 will help provide additional data that MMS hopes to use for subsequent calibration of the UWC. The in-situ testing will provide additional data that MMS hopes to use for subsequent calibration of the UWC. However, at the present time, MMS has not been able to secure assistance from industry or any volunteered ''targets of opportunity.''

Comment 20: The API/NOIA note that past efforts to measure detonation effects are not considered while criteria derived from the CHURCHILL shock trial and results of the UWC are embraced. The appearance is that the UWC has been used to apply theoretical propagation calculations to the CHURCHILL criteria to produce estimated impact zones several times larger than those based on actual measurements-in favor of overly conservative impact zones derived from theory (UWC) and improper application of the CHURCHILL criteria to structure removal detonations. This in turn has led NMFS to attach monitoring requirements beyond what is necessary. Additional in-situ measurements are needed before models such as the UWC can be treated as credible. The commenters state that industry has been willing to provide ''targets of opportunity'' for such measurements and will doubtless continue to do so.

Response: Please see response to comment 19.

Comment 21: API/NOIA note that NMFS proposes to make any future take authorization from explosive removal activities contingent on additional in-situ measurements of explosive decommissionings. This contingency does not make clear which entity (MMS, NMFS, or the regulated community) is responsible for conducting such measurements. It is also unclear what kinds of measurements are expected, what acceptance criteria will be used by NMFS or what purpose they will serve.

Response: See previous responses regarding the TAR program. Information on the project can be found on MMS' website (). MMS conducted measurement activities during the 2007 decommissioning season. Data recorded during the in-situ exercises will be used for verification of existing models (including the UWC) and similitude equations, which will be essential for improving future mitigation measures. Therefore, MMS (the petitioner) is already working to meet this requirement.

Comment 22: The API/NOIA believe that a requirement to use helicopters ''running standard low-altitude search patterns'' is unclear. Reference to an intended procedure or definition should be provided. Is there a specified aerial flight survey ''grid pattern'' found in NMFS' observer guidelines?

Response: NMFS believes that the helicopter grid pattern described in the proposed rule and this final rule provide sufficient detail. The NMFS observer who will participate in each aerial survey will be able to provide more information regarding the grid pattern.

Comment 23: DEMEX notes that there should be some flexibility in the number of observers on a project. The size and scope of the project as well as the living-space and other logistical issues should all be considered. DEMEX recommends one observer for the surface surveys and one observer for the aerial survey. If possible, the surface survey observer could join the aerial observer for that portion of the observation. LIS recommends observers for all charges over 20 lbs (9.1 kg).

Response: The number of observers is based on a number of variables such as size of charge, depth of water, etc. A minimum of two observers is necessary to provide enough coverage to conduct both the surface survey and the aerial monitoring. The minimum number of observers could be increased by the NMFS Platform Removal Observer Program (PROP) Manager to accomodate the size and scope of larger projects.

Comment 24: The API/NOIA believe that justification is warranted for requiring two teams of observers (3 observers in each team). It is also not clear what constitutes a ''team.'' Is it meant to describe two groups of three observers (one each for surface, aerial and acoustic monitoring)? If so, why, if the observations are only allowed during daylight hours in favorable weather, or does one team comprise a surface and an aerial observer and the other an acoustic observer? These uncertainties should be clarified, consistent with industry's position that (passive) acoustic monitoring has not yet been demonstrated to be practical for operational applications. As a practical matter it is often disruptive, costly and potentially unsafe to accommodate unnecessary personnel in a working marine environment.

Response: NMFS believes that the proposed rule warrants clarification on this matter. Generally, two observers will be assigned to each operation for detection survey duties. However, because certain mitigation scenarios (C2, C4, D2, D4, E2, and E4), which are described later in the preamble to this rule, require implementation of an acoustics monitoring program, a minimum of three observers for the simultaneous surface, aerial, and acoustic surveys will be required. There is no requirement for multiple ''teams'' to be deployed.

In the proposed rule (71 FR 17790, April 10, 2006) and later during the Endangered Species Act (ESA) Section 7 consultation, it was determined that two NMFS observers would perform marine protected species detection surveys for those scenarios taking place in waters greater than 200 m (656 ft). For scenarios in waters greater than 200 m (656 ft), at least 3 observers are needed for simultaneous surface, aerial, and acoustic monitoring. The PROP Manager will determine if additional observers are required to compensate for the complexity of severance activities or structure configuration. As previously discussed, since PAM requirements remain in this Final Rule, operators covered by an LOA under this rule will have to work with the NMFS PROP Manager to ensure that the logistics for their removal operations can accommodate the required number of observers.

Comment 25: DEMEX asks whether nighttime observations are going to be required as they were under the 1995 Biological Opinion (BiOp) and Incidental Take Statement (ITS)?

Response: Those requirements in the 1995 ESA BiOp and ITS were determined to be ineffective due to limitations on visibility. Therefore, nighttime observations are no longer required.

Comment 26: Some industry representatives (API/NOIA, DEMEX) believe there is too much confusion regarding the definition of daylight and dawn which will cause difficulties in the field. Previous rules and regulations allowed the detonation 1 hour after dawn. If the proposed rule means that the 90–minute surface survey would begin 1 hour after dawn, followed by a 30–minute aerial survey, that would mean it would be over 3 hours after dawn before explosives could be detonated. DEMEX believes it would be much more practical to conduct surface and aerial surveys during daylight hours beginning at dawn and concluding at least one hour before sunset. (Dawn and sunset conventionally refer to times when the upper edge of the disk of the sun is on the horizon, considered unobstructed relative to the location of

interest.) This schedule would allow detonations to occur no later than one hour before sunset.

Response: All pre-detonation surveys will be restricted to daylight hours as defined by ''legal sunrise'' to ''legal sunset'' (conventionally referred to as the time when the upper edge of the disk of the Sun is on the horizon (as determined by the NMFS onboard observer)) to ensure that the operator can easily confirm these times. Therefore, the time periods for pre-detonation surveys outlined in this rule cannot begin until legal sunrise and all detonations must be concluded so that post-detonation surveys can be completed by legal sunset.

Comment 27: The API/NOIA believe the statement in the proposed rule that ''surface surveys are to be conducted during daylight hours only'' is vague.

Response: See previous response.

Comment 28: DEMEX asks whether a project can be halted because of the unavailability of observers?

Response: Observers are necessary components of the mitigation requirements for lawful incidental take of marine mammals and compliance with these regulations and LOAs issued thereunder (as well as for sea turtles under the BiOp and ITS). Because the previous ESA requirements relating to the 48–hr pre-detonation monitoring have been eliminated, the NMFS PROP program manager does not foresee a problem related to the availability of personnel. However, if NMFS observers are unavailable, a project will be temporarily halted until observers are onsite.

Comment 29: DEMEX notes that the proposed rule requires observers to conduct a 90–minute surface survey prior to a severance-charge detonation. DEMEX recommends detonation times should be 90 minutes after dawn up until 1 hour before sunset.

Response: As pre-detonation surveys are restricted to daylight hours (as defined by ''legal sunrise'' to ''legal sunset''), and as vessel surveys may take as long as 150–180 minutes to complete for large and specialty charges, the suggestion to limit pre-detonation surveys to 90 minutes would not provide an acceptable monitoring period for these large charges.

Comment 30: DEMEX notes that the proposed rule states that: (1) detonation operations ''cannot begin until the requisite surface monitoring survey has been completed,'' and (2) post-post-detonation aerial monitoring surveys must be conducted ''within 2–7 days after detonation activities have been concluded.'' DEMEX recommends the 30–minute aerial survey be done at the same time as the surface monitoring to allow blasting to commence 90 minutes after dawn. DEMEX opposes having the usable blasting daylight hours become less than they already were in the previous regulations.

Response: Aerial surveys are to commence at the conclusion of the surface monitoring because (1) one of the surface observers will have to accompany the helicopter pilot and (2) the observation work is to be conducted afterward (and not concurrently) to improve the overall effectiveness of detection prior to detonation. Reference to ''within 2–7 days after detonation activities have concluded'' relates to Post-Post-Detonation Aerial Monitoring Surveys and not the standard Pre-Detonation Aerial Monitoring Surveys.

Comment 31: One requirement forbids initiation of aerial surveys until the surface monitoring surveys have been completed. If two or more observers are available, this appears to be a counterproductive restriction. Industry representatives (API/NOIA) recommend amending the rule to permit aerial surveys to begin at any time and to conclude no earlier than when final clearance to detonate charges is given by the observer team. The duration of aerial surveys, of course, would still be consistent with the times given in the relevant table.

Response: See response to comment 30.

Comment 32: The API/NOIA note that ''post-post-detonation'' aerial surveys are to be conducted 2–7 days after the decommissioning charges are detonated. In the many years that these surveys have been conducted, there has never been a sighting of a dead or injured animal. Frequently changing winds and currents make it nearly impossible to determine the direction and distance a dead or injured animal may have been carried since the detonation occurred. Representatives of the industry (API/NOIA, DEMEX and LIS) believe the 2–7 day aerial survey should be reconsidered.

Response: Although there were prior opportunities to raise and discuss these concerns (e.g., the 2004 Explosive-Severance Mitigation Workshop and the comment period on MMS' Draft PEA), the commenters did not raise them before or suggest alternatives. Absent additional information, NMFS believes there is merit to continuing the post-post detonation monitoring. The fact that these surveys have not detected an injured or dead animal does not necessarily mean they are ineffective. It could mean the pre-detonation mitigation and monitoring has been effective.

Comment 33: The API/NOIA note that the regulations would require an operator to cease an explosive severance activity if a marine mammal or sea turtle is found shocked, injured, or dead. The commenters believe the intent is to cease detonation of any additional charges, not to cease related activity such as supporting, lifting and/or loading severed structures for transport. Halting those post-detonation operations could lead to unsafe conditions such as losing control of the structure or endangering vessels and crew. Although multiple-charge operations are normally executed in almost instantaneous sequences of detonations, occasionally additional charges may be required to complete severing of some structural members. If additional charges are required, operations would automatically cease when the operator completes activities such as inspection of the structure, preparation and placement of charges, repositioning of lifting equipment, etc. These activities may take several hours to complete. If this interpretation of the requirement is correct, compliance would not likely be a problem.

Response: As noted in the comment, the intent is that only explosive detonation and charge deployment work cease, and not the other decommissioning activities such as jacket securing, lifting, loading, and transport. Direction will be given by NMFS PROP Manager/representative on resuming any explosive-severance activities after any event impacting marine protected species.

ESA Concerns

Comment 34: The API/NOIA note that the preamble to the proposed rule states that the mitigation scenarios developed for this proposed rule will also apply to sea turtles (and this thread continues through subsequent parts of the preamble). The industry agrees that the mitigation measures developed here for marine mammals will provide adequate protection for sea turtles. However, will these measures supercede existing requirements applicable to turtles?

Response: On August 28, 2006, NMFS issued a new BiOp for MMS' permitting of structure-removal operations on the GoM OCS and for NMFS' issuance of LOAs to the industry to take marine mammals by harassment incidental to structure removal operations. The 2006 BiOp and Amended ITS, which contain measures to protect sea turtles, replace the previous 1987 BiOp.

Description of Habitat and Marine Mammals Affected by the Activity

Explosive severance activities could occur in all water depths of the offshore areas designated by MMS as the GoM Central and Western Planning Areas (CPA and WPA) and a portion of the Eastern Planning Area (EPA) offered under Lease Sale 181/189 (see Figure 2 or 3 in MMS' MMPA Application). Water depths in the areas of the proposed action range from 4 to 3,400 m (13–11,155 ft), with the majority of existing facilities and wells found within the CPA, concentrated on the upper shelf waters (less than 200 m (656 ft) water depth) off of Louisiana. A detailed description of the northern GoM area and its associated marine mammals can be found in the MMS application and PEA and in a number of documents referenced in the application. Detailed information on the marine mammals in the GoM can also be found in the NMFS status of stocks reports (Waring *et al.*, 2007), which are available for downloading or reading at: *http://www.nefsc.noaa.gov/nefsc/publications/tm/tm201/tm201.pdf*.

A total of 28 cetacean species and one species of sirenian (West Indian manatee) are known to occur in the GoM. These cetacean species are the sperm whale, pygmy sperm whale, dwarf sperm whale, Cuvier's beaked whale, Sowerby's beaked whale (extralimital), Gervais' beaked whale, Blainville's beaked whale, rough-toothed dolphin, bottlenose dolphin, pantropical spotted dolphin, Atlantic spotted dolphin, spinner dolphin, Clymene dolphin, striped dolphin, Fraser's dolphin, Risso's dolphin, melon-headed whale, pygmy killer whale, false killer whale, killer whale, short-finned pilot whale, North Atlantic right whale (extralimital), humpback whale (rare), minke whale (rare), Bryde's whale, sei whale (rare), fin whale (rare), and the blue whale (extralimital).

A description of the status, distribution, and seasonal distribution of the affected species and stocks of marine mammals that might be affected by explosive severance activities is provided in MMS' MMPA Application).

Potential Impacts to Marine Mammals

Underwater explosions are the strongest manmade point sources of sound in the sea (Richardson *et al.*, 1995). The underwater pressure signature of a detonating explosion is composed of an initial shock wave, followed by a succession of oscillating bubble pulses (if the explosion is deep enough not to vent through the surface) (Richardson *et al.*, 1995). The shock wave is a compression wave that expands radially out from the detonation point of an explosion. Although the wave is initially supersonic, it is quickly reduced to a normal acoustic wave. The broadband source levels of charges weighing 0.5–20 kg (1.1–44 lb) are in the range of 267–280 dB re 1 microPa (at a nominal 1–m distance), with dominant frequencies below 50 Hz (Richardson *et al.*, 1995; CSA, 2004). The following sections discuss the potential impacts of underwater explosions on marine mammals, including mortality, injury, hearing effects, and behavioral effects.

Mortality or Injury

It has been demonstrated that nearby underwater blasts can injure or kill marine mammals (Richardson *et al.*, 1995). Injuries from high-velocity underwater explosions result from two factors: (1) the very rapid rise time of the shock wave; and (2) the negative pressure wave generated by the collapsing bubble, which is followed by a series of decreasing positive and negative pressure pulses (CSA, 2004). The extent of injury largely depends on the intensity of the shock wave at the receiver (marine mammal) and the size and depth of the animal (Yelverton *et al.*, 1973; Craig, 2001).

The greatest damage occurs at boundaries between tissues of different densities because different velocities are imparted that can lead to their physical disruption; effects are generally greatest at the gas-liquid interface (Landsberg, 2000; CSA, 2004). Gas-containing organs, especially the lungs and gastrointestinal tract, are susceptible to this type of damage. Lung injuries (including lacerations and the rupture of the alveoli and blood vessels) can lead to hemorrhage, air embolisms, and breathing difficulties. The lungs and other gas-containing organs (nasal sacs, larynx, pharynx, and trachea) may also be damaged by compression/expansion caused by oscillations of the blast gas bubble (Reidenberg and Laitman, 2003). Intestinal walls can bruise or rupture, which may lead to hemorrhage and the release of gut contents. Less severe injuries include contusions, slight hemorrhaging, and petechia (Yelverton *et al.*, 1973; CSA, 2004). Ears are the organs most sensitive to pressure and, therefore, to injury (Ketten, 2000; CSA, 2004). Severe damage to the ears can include rupture of the tympanic membrane, fracture of the ossicles, cochlear damage, hemorrhage, and cerebrospinal fluid leakage into the middle ear. By themselves, tympanic membrane rupture and blood in the middle ear can result in partial, permanent hearing loss. Permanent hearing loss can also occur when the hair cells are damaged by loud noises (ranging from single, very loud events to chronic exposure).

Hearing Effects

Mammalian hearing functions over a wide range of sound intensities, or loudness. The sensation of loudness increases approximately as the logarithm of sound intensity (Richardson and Malme, 1993). Sound intensity is usually expressed in decibels (dB), units for expressing the relative intensity of sounds on a logarithmic scale. Because sound pressure is easier to measure than intensity and intensity is proportional to the square of sound pressure, sound pressure level is usually reported in units of decibels relative to a standard reference pressure.

Based on the information presented in Richardson *et al.* (1995), the possible behavioral effects of noise from underwater explosions on marine mammals may be categorized as follows:

1. The noise may be too weak to be heard at the location of the animal (i.e., below the local ambient noise level, below the hearing threshold of the animal at the relevant frequencies, or both);

2. The noise may be audible, but not loud enough to elicit an overt behavioral reaction;

3. The noise may elicit behavioral reactions, which may vary from subtle effects on respiration or other behaviors (detectable only statistically) to active avoidance behavior;

4. With repeated exposure, habituation (diminishing responsiveness) to the noise may occur. Continued disturbance effects are most likely with sounds that are highly variable in their characteristics, unpredictable in occurrence, and associated with situations perceived by the animal as threatening;

5. Any anthropogenic noise that is strong enough to be heard has the potential to reduce (mask) the ability of a marine mammal to hear natural sounds at similar frequencies, including calls from conspecifics, and underwater environmental sounds such as surf noise.

6. If mammals remain in an area because it is important for feeding, breeding or some other biologically important purpose even though there is chronic exposure to noise, it is possible that there could be noise-induced physiological stress; this might in turn have negative effects on the well-being

or reproduction of the animals involved; and

7. Very strong sounds have the potential to cause temporary or permanent reduction in hearing sensitivity. In terrestrial mammals, and presumably marine mammals, received sound levels must far exceed the animal's hearing threshold for there to be any TTS in its hearing ability. For transient sounds, the sound level necessary to cause TTS is inversely related to the duration of the sound exposure. Received sound levels must be even higher for there to be risk of permanent hearing impairment. In addition, intense acoustic or explosive events may cause trauma to tissues associated with organs vital for hearing, sound production, respiration and other functions. This trauma may include minor to severe hemorrhage.

Temporary Threshold Shift (TTS)

The mildest form of hearing impairment, TTS, is defined as the temporary elevation of the minimum hearing sensitivity threshold at particular frequency(s) (Kryter, 1985; CSA, 2004). TTS may last from minutes to days. Although few data exist on the effects of underwater sound on marine mammal hearing, in terrestrial mammals, and presumably in marine mammals, received levels must exceed an animal's hearing threshold (i.e., maximum sensitivity) for TTS to occur (Richardson *et al.*, 1995; Kastak *et al.*, 1999; Wartzok and Ketten, 1999).

Most studies involving marine mammals have measured exposure to noise in terms of SPL, measured in dBrms or dBpeak pressure re 1 microPa. Exposure to underwater sound can also be expressed in terms of energy (SEL), or acoustic energy (measured in dB re 1 microPa2–s), which, unlike SPL measurements, considers both intensity and duration of the sound. If TTS is defined as a measurable threshold shift of 6 dB or more (Finneran *et al.*, 2000, 2002), then based on experiments with beluga whales and bottlenose dolphins, the onset of TTS is associated with an energy level of about 184 dB re 1 microPa2–s (CSA, 2004). However, the data are very limited, and Finneran (2003) has noted that they should be interpreted with caution.

Permanent Threshold Shift (PTS)

PTS is a permanent decrease in the functional sensitivity of an animal's hearing system at some or all frequencies (CSA, 2004). The principal factors involved in determining whether PTS will occur include sound impulse duration, peak amplitude, and rise time. The criteria are location- and species-specific (Ketten, 1995) and are also influenced by the health of the receiver's ear.

At least in terrestrial animals, it has been demonstrated that the received level from a single exposure must be far above the TTS threshold for there to be a risk of PTS (Kryter, 1985, Richardson *et al.*, 1995; CSA, 2004). Sound signals with sharp rise times (e.g., from explosions) produce PTS at lower intensities than do other types of sound (Gisner, 1998; CSA, 2004).

For explosives, Ketten (1995) estimated that greater than 50–percent PTS would occur at peak pressures of 237–248 dB re 1 microPa and that TTS would occur at peak pressures of 211–220 dB re 1 microPa. Ketten (1995) recommended a ''safe'' peak pressure level to avoid physical injury of 100 psi (237 dB re 1 microPa (peak), or an SEL of about 212 dB re 1 microPa^2–s). Ketten (1998) found that peak blast overpressures of 1,034 kPa (150 psi) were associated with 50 percent tympanic membrane rupture. Based on the incidence of eardrum rupture in sheep exposed to underwater explosions by Richmond *et al.* (1973), Craig (2001) estimated that 50 percent tympanic membrane rupture would occur at an energy flux density of 1.17 in-lb/in^2. This criterion is more conservative than the one derived by Ketten (1995) and was used in the ship shock EISs as a criterion for injury, and is used by MMS and NMFS in this action. PTS is assumed to occur at received levels 30 dB above TTS-inducing levels. Studies have shown that injuries at this level involve the loss of sensory hair cells (Ahroon *et al.*, 1996; CSA, 2004).

Behavioral Effects

Behavioral reactions of marine mammals to sounds such as those produced by underwater explosives are difficult to predict. Whether and how an animal reacts to a given sound depends on factors such as the species, hearing acuity, state of maturity, experience, current activity, reproductive state, time of day, and weather.

Richardson *et al.* (1995) summarized available information on the reported behavioral reactions of marine mammals to underwater explosions. Observations following the use of seal bombs as scare charges indicate that pinnipeds rapidly habituate to and, in general, appear quite tolerant of, noise pulses from explosives. Klima *et al.* (1988) reported that small charges were not consistently effective in moving bottlenose dolphins away from blast sites in the GoM. Since dolphins may be attracted to the fish killed by such a charge, rather than repelled, scare charges are not used in the GoM platform removal program (G. Gitschlag, personal communication, in Richardson *et al.*, 1995).

There are few data on the reactions of baleen whales to underwater explosions. Gray whales were apparently unaffected by 9- to 36–kg (20- to 97–lb) charges used for seismic exploration (Fitch and Young, 1948). However, Gilmore (1978) felt that similar underwater blasts within a few kilometers of the gray whale migration corridor did ''sometimes'' interrupt migration.

Humpback whales have generally not been observed to exhibit behavioral reactions (including vocal ones) to explosions, even when close enough to suffer injury (hearing or other) (Payne and McVay, 1971; Ketten *et al.*, 1993; Lien *et al.*, 1993; Ketten, 1995; Todd *et al.*, 1996). In Newfoundland, humpbacks displayed no overt reactions within about 2 km (1 nm)of 200- to 2,000–kg explosions. Whether habituation and/or hearing damage occurred was unknown, but at least two whales were injured (and probably killed) (Ketten *et al.*, 1993). Other humpback whales in Newfoundland, foraging in an area of explosive activity, showed little behavioral reaction to the detonations in terms of decreased residency, overall movements, or general behavior, although orientation ability appeared to be affected (Todd *et al.*, 1996). Todd *et al.* (1996) suggested caution in interpretation of the lack of visible reactions as indication that whales are not affected or harmed by an intense acoustic stimulus; both long- and short-term behavior as well as anatomical evidence should be examined. The researchers interpreted increased entrapment rate of humpback whales in nets as the whales being influenced by the long-term effects of exposure to deleterious levels of sound.

As mentioned previously, Finneran *et al.* (2000) exposed captive bottlenose dolphins and belugas to single, simulated sounds of distant explosions. The broad-band received levels were 155–206 dB; pulse durations were 5.4–13 ms. This was equivalent to a maximum spectral density of 102–142 dB re 1 μPa/Hz^2 at a 6.1 Hz bandwidth. Although pulse durations differed, the source levels required to induce a behavioral response to the introduced sounds were similar to those found by Ridgway *et al.* (1997) and Schlundt *et al.* (2000).

Estimates of Take by Harassment During Explosive Severance Activities in the GoM.

The MMS has requested NMFS to issue authorizations, under section

101(a)(5)(A) of the MMPA, to cover any potential take by Level A or Level B harassment for the 28 species of cetaceans listed previously in this document, incidental to the oil and gas industry conducting explosive-severance operations regulated by the MMS. Explosive severance operations have the potential to take marine mammals by contact with shock wave and acoustic energy released from underwater detonations and the resultant injury, hearing damage, and behavioral effects. For this activity, NMFS and MMS used take thresholds and criteria for explosives used in the incidental take authorization for shock trials for the U.S. Navy's USS WINSTON CHURCHILL (Navy, 2001). While these criteria remain a subject for future discussion and revision (see 69 FR 21816, April 22, 2004, and 70 FR 48675, August 19, 2005), the WINSTON CHURCHILL criteria (i.e., 12 pounds/in^2 (psi) peak-pressure and 182 dB (re 1 microPa^2–sec)) have been used because these criteria remain conservative. For example, Finneran *et al.* (2003) did not find masked TTS in the single bottlenose dolphin tested at the highest exposure conditions: peak pressure of 207 kPa (30 psi), 228 dB re 1 microPa pk-pk pressure, and 188 dB re 1 microPa^2–s total energy flux. These criteria will be updated in 2008 when NMFS and the Navy complete an evaluation for these criteria as applied to the shock trial of the USS MESA VERDE (see 72 FR 61329, October 30, 2007 and 73 FR 19789, April 11, 2005).

The criteria for nonlethal, injurious impacts (Level A harassment) are currently defined as the incidence of 50–percent tympanic-membrane (TM) rupture and the onset of slight lung hemorrhage for a 12.2–kg (27 lb) dolphin calf. Level A harassment take is assumed to occur:

1.at an energy flux density value of 1.17 in-lb/in^2 (which is about 205 dB re 1 μPa^2–s); or

2.if the peak pressure exceeds 100 psi for an explosive source; i.e., the ''safe'' peak pressure level recommended by Ketten (1995) to avoid physical injury.

The horizontal distance from the explosive to each threshold is considered the distance at which Level A harassment would occur (U.S. Dept. Navy, 2001. FEIS for the Shock Trial of the USS WINSTON CHURCHILL).

NMFS recognizes two levels of noninjurious acoustic impacts (Level B harassment). One criterion for Level B harassment is defined by the onset of TTS. Two thresholds are applied. TTS is assumed to be induced:

1.At received energies greater than 182 dB re 1 microPa2–s within any 1/3–octave band; or

2.If, for an explosive source, the peak pressure at the animal exceeds 12 psi.

As with Level A harassment, the horizontal distance to each threshold is considered the distance at which Level B harassment (TTS) would occur. These distances have been used for estimating conservative zones of impact.

''Sub-TTS'' behavioral effects may also be considered to constitute a take by Level B harassment if a marine mammal reacts to an activity in a manner that would affect some behavioral pattern in a biologically significant way. Single, minor reactions (such as startle or ''heads-up'' alert displays, short-term changes in breathing rates, or modified single dive sequences) that have no biological context would not qualify as takes (66 FR 22450, May 4, 2001). This would include minor or momentary strictly behavioral responses to single events such as underwater explosions. Since explosive severance activities result in single, almost instantaneous detonations, with no repetitive detonations, NMFS does not believe marine mammals would be subject to sub-TTS behavioral harassment, although there may be behavioral modifications as a result of TTS (e.g., changes in conspecific spatial separation).

In order to estimate incidental take numbers for explosive severance activities, fundamental modeling components require: (1) predictive modeling of detonation pressure/energy propagation, (2) propagation model verification and utilization, (3) predictive modeling of marine mammal take estimates, and (4) take-estimate calculation. These models and the calculations resulting from those models are explained in detail in MMS (2005a and 2005b).

Based on MMS calculations for all explosive-severance monitoring scenarios, Level A harassment takes would be limited to 5 bottlenose dolphins, one Atlantic spotted, and one pantropical spotted dolphin over the five-year period of these regulations. Annual Level B harassment takes would be limited to 227 bottlenose dolphins, 65 Atlantic spotted dolphins, 77 pantropical spotted dolphins, 27 Clymene dolphins, 12 rough-toothed dolphins, 14 striped dolphins, 15 melon-headed whales, 10 pilot whales, 5 spinner dolphins, 3 Risso's dolphins, and 2 sperm whales. It should be noted that Level A and Level B harassment estimates are made without consideration of the implementation of mitigation measures to protect marine mammals, so actual harassment numbers would likely be lower. Post-activity monitoring conducted by trained biological observers since 1989 has not produced any sightings of distressed marine mammals.

Mitigation and Monitoring

Based upon the analysis found in the MMS Final PEA (MMS, 2005b), NMFS believes that implementation of the mitigation measures listed in this section will prevent the occurrence of any mortality or serious injury to marine mammals.

Charge Criteria

The charge criteria discussed here (e.g., charge size, detonation staggering, and explosive material) are applicable for all of the explosive-severance scenarios conducted under the proposed action.

Charge Size

The options available under the multiple explosive- severance scenarios allow for the utilization of any size charge between 0 and 500 lb (226.8 kg). Most often determined in the early planning stages, the final/actual charge weight establishes the specific monitoring scenario that must be adhered to as a condition of an MMPA authorization. Increasing the charge size results in the need for increasing levels of mitigation/monitoring. Using explosives greater than 500 lb (226.8 kg) is not covered for lawful incidental taking of marine mammals under the MMPA. Use of explosives greater than 500 lb (226.8 kg) would require additional NEPA analyses, ESA consultations and an MMPA authorization prior to usage.

Detonation Staggering

Multiple-charge detonations will be staggered at an interval of 0.9 sec (900 msec) between blasts to prevent an additive pressure event. For decommissioning purposes, a ''multiple-charge detonation'' refers to any configuration where more than one charge is required in a single detonation ''event.''

Explosive Material

There are many important properties (i.e., velocity, brisance, specific-energy, etc.) related to the explosive material(s) used in developing severance charges. Material needs vary widely depending upon target characteristics, marine conditions, and charge placement. Since specific material and personnel safety requirements must be established and followed, all decisions on explosive composition, configuration, and usage

should be made by the qualified (i.e., licensed and permitted) explosive contractors in accordance with the applicable explosive-related laws and regulations. However, limiting charge size or material may result in incomplete severing possibly requiring even larger charge weight to complete the severing.

Specific Mitigation/Monitoring Requirements

Explosive severance activities, as described in the MMS MMPA application and Final PEA, have been grouped into five blasting categories (very small, small, standard, large, and specialty). Since the level of detonation pressure and energy is primarily related to the amount of the explosives used, these categories were developed based upon the specific range of charge weights needed to conduct current and future GoM OCS decommissionings. Depending on the design of the target and other variable marine conditions, the severance charges developed under each of these categories could be designed for use in either a below-mudline (BML) or above mudline (AML) configuration. These factors, combined with an activity location within either the shelf (less than 200 m (656 ft)) or slope (greater than 200 m (656 ft)) species-delineation zone, result in 20 separate explosive-severance monitoring scenarios as depicted in Table 1.

The charge criteria previously listed are standard for all decommissionings employing explosive severance activities. However, depending upon the severance scenario, there are six different types of marine mammal monitoring surveys that must be conducted before and after all detonation events (sea turtles were included in MMS' specified activity mitigation and monitoring activities because they will also minimize impacts to ESA-listed sea turtles). The specific monitoring requirements, survey times, and impact zone radii for all explosive severance monitoring scenarios are summarized in Table 1.

TABLE 1. BLAST CATEGORIES, MITIGATION SCENARIOS, SURVEY AND TIME REQUIREMENTS FOR ALL EXPLOSIVE SEVERANCE SCENARIOS.[1]

Blasting Category	Configuration (Charge wt/ placement)	Species Delineation Zone	Mitgation Scenario	Impact Zone Radius	Pre Det Surface Survey (min)	Pre Det Aerial Survey (min)	Pre Det Acoustic Survey (min)	Post Det Surface Survey (min)	Post Det Aerial Survey (min)	Post Post Det Aerial Survey (Yes/No)	Waiting Period (min)
	BML	Shelf (<200 m)	A1	261 m	60	N/A	N/A	30	N/A	No	30
Very-	(0-10 lb)	Slope (>200 m)	A2	(856 ft)	90	N/A	N/A	30	N/A	No	30
Small	AML	Shelf (<200 m)	A3	293 m	60	N/A	N/A	30	N/A	No	30
	(0-5 lb)	Slope (>200 m)	A4	(961 ft)	90	N/A	N/A	30	N/A	No	30
	BML	Shelf (<200 m)	B1	373 m	90	30	N/A	N/A	30	No	30
Small	(>10-20 lb)	Shelf (>200 m)	B2	(1,224 ft)	90	30	N/A	N/A	30	No	30
	AML	Shelf (<200 m)	B3	522 m	90	30	N/A	N/A	30	No	30
	(>5-20 lb)	Slope (>200 m)	B4	(1,714 ft)	90	30	N/A	N/A	30	No	30
	BML	Shelf (<200 m)	C1	631 m	90	30	N/A	N/A	30	No	30
Standard	(>20-80 lb)	Slope (>200 m)	C2	(2,069 ft)	90	30	120	N/A	30	No	30
	AML	Shelf (<200 m)	C3	829 m	90	45	N/A	N/A	30	No	30
	(>20-80 lb)	Slope (>200 m)	C4	(2,721 ft)	90	60	150	N/A	30	Yes	45
	BML	Shelf (<200 m)	D1	941 m	120	45	N/A	N/A	30	No	30
Large	(>80-200 lb)	Slope (>200 m)	D2	(3,086 ft)	120	60	180	N/A	30	Yes	45
	AML	Shelf (<200 m)	D3	1,126 m	120	60	N/A	N/A	30	No	30
	(>80-200 lb)	Slope (>200 m)	D4	(3,693 ft)	150	60	210	N/A	30	Yes	45
	BML	Shelf (<200 m)	E1	1,500 m	150	90	N/A	N/A	45	No	45
Specialty	(>200-500 lb)	Slope (>200 m)	E2	(4,916 ft)	180	90	270	N/A	45	Yes	45
	AML	Shelf (<200 m)	E3	1,528 m	150	90	N/A	N/A	45	No	45
	(>200-500 lb)	Slope (>200 m)	E4	(5,012 ft)	180	90	270	N/A	45	Yes	45

[1] Severance of subsea structures that do not penetrate the sea surface will follow the mitigation scenario for above mudline (AML) detonations even if charges are placed below mudline.

Accounting for similar pre- and post-detonation surveys, the 20 explosive-severance monitoring scenarios correspond roughly with 8 basic mitigation processes that differ only in impact zone ranges and survey times. As noted in Appendix E of MMS' Final PEA, these impact zone radii were derived using the UWC, a verified model that predicts the detonation pressure/energy propagation resulting from underwater detonations. Time requisites were established by NMFS and MMS scientists, taking into consideration likely marine mammals (and sea turtles) and their surfacing/diving rates. The mitigation and monitoring processes for each of the 20 explosive-severance scenarios are found in MMS' MMPA application and are not repeated here because of length and complexity. Instead, the mitigation and monitoring measures are summarized in Table 1 and are illustrated by using the Standard Blasting Category for shelf and slope waters as examples.

Shelf Waters (<200 m (<656 ft)): Scenarios C1 and C3

An operator proposing shelf-based (<200 m), explosive- severance activities conducted under the standard blasting category will be limited to 80–lb charge sizes (BML or AML) and will be required to conduct all requisite monitoring during daylight hours out to the associated impact-zone radii listed here:

C1BML631 m (2,069 ft)
C3AML829 m (2,721 ft)

Required Observers

Generally, two NMFS observers are required to perform marine mammal (and sea turtle) detection surveys for standard-blasting under shelf water scenarios C1 and C3. If necessary, the PROP manager will determine if additional observers are required to compensate for the complexity of severance activities and/or structure configuration. In addition to meeting all reporting requirements, the NMFS observers will:

1. Brief affected crew and severance contractors on the monitoring requirements and instruct topsides personnel to immediately report any sighted marine mammals (or sea turtles) to an observer or designated company representative;

2. Establish an active line of communication (i.e., 2–way radio, visual signals, etc.) with company and blasting personnel; and

3. Devote the entire, uninterrupted survey time to marine mammal (and sea turtle) monitoring.

Pre-Detonation Mitigation/Monitoring

Before severance-charge detonation, the NMFS observers will conduct a 90–minute surface monitoring survey of the impact zone. The monitoring will be conducted from the highest vantage points and other location(s) that provide the best, clear view of the entire impact zone. The vantage points may be on the structure being removed or proximal surface vessels such as crew boats and/or derrick barges. Once the surface monitoring is complete (i.e., the impact zone determined to be clear of marine mammals (and sea turtles)), the NMFS observer(s) will conduct the aerial monitoring survey by helicopter to conduct a 30–minute (Scenario C1) or 45–minute (Scenario C3) survey. When two NMFS observers are on site, NMFS may decide to have both observers fly the aerial survey or have one observer continue surface monitoring while the other observer flies the survey. The helicopter will transverse the impact zone at low speed/altitude in a specified grid pattern (see Table A–2 of the Appendix to the 2006 Biological Opinion).

The following is a description of the surface and aerial mitigation and monitoring protocol.

If during the surface survey a marine mammal (or sea turtle) is:

1. Not sighted inside the impact zone or sighted outside the impact zone (and not inbound towards the impact zone), proceed with the aerial survey;

2. Sighted inside the impact zone and subsequently re-sighted outside the impact zone, proceed with the aerial survey;

3. Sighted inside the impact zone and not subsequently re-sighted outside the impact zone,

a. Halt the initiation of the aerial survey,

b. Conduct an additional surface survey equal to the waiting period specified in Table 1 with a start time of the last marine mammal (or sea turtle) sighting recorded inside the impact zone or inbound towards the impact zone; or

4. Sighted outside the impact zone and moving inbound towards the impact zone,

a. Halt initiation of the aerial survey,

b. Conduct an additional surface survey equal to the waiting period specified in Table 1 with a start time of the last marine mammal (or sea turtle) sighting recorded inside the impact zone or inbound towards the safety zone.

If during the *aerial survey* a marine mammal (or sea turtle) is:

1. Not sighted in the impact zone or sighted outside the impact zone (and not inbound towards the impact zone), proceed with the detonation;

2. Sighted inside the impact zone and, upon completion of the aerial survey, re-sighted outside the impact zone, proceed with the detonation to avoid re-entry,

3. Sighted inside the impact zone and, upon completion of the aerial survey, not re-sighted outside the impact zone,

a. Halt the detonation,

b. Monitor opportunistically for the waiting period specified in Table 1 with a start time of the last marine mammal (or sea turtle) sighting recorded inside the impact zone or inbound towards the impact zone, and

c. Re-conduct the entire aerial monitoring survey; or

4. Sighted outside the impact zone and moving inbound towards the impact zone,

a. Halt the detonation,

b. Monitor opportunistically for the waiting period specified in Table 1, with a start time beginning at the time of the last marine mammal (or sea turtle) sighting recorded inside the impact zone or inbound towards the impact zone; and

c. Re-conduct the entire aerial monitoring survey.

Post-Detonation Monitoring

After severance charge detonation, the NMFS observers will conduct a 30–minute aerial monitoring survey of the impact zone to look for impacted marine mammals (and sea turtles). If a marine mammal (or sea turtle) is found shocked, injured, or dead, the operations will cease, attempts will be made to collect/resuscitate the animal, and NMFS' Southeast Regional Office (SERO) will be contacted. If the animal does not revive, efforts should be made to recover it for necropsy in consultation with the appropriate NMFS' Stranding Coordinator. If no marine mammals (or sea turtles) are observed to be impacted by the detonation, the NMFS observer(s) will record all of the necessary information as required in MMS's permit approval letter and guidelines for the preparation of a trip report.

A flowchart of the monitoring process and associated survey times for standard severance-scenarios C1 and C3 is provided in Figure 6 in MMS' LOA application.

Slope Waters (>200 m (>656 ft)): Scenarios C2 and C4

An operator proposing slope-based (>200 m), explosive- severance activities conducted under the standard blasting category will be limited to 80–lb charge sizes (BML or AML) and shall conduct

all requisite monitoring during daylight hours out to the associated impact-zone radii listed below:

C2BML631 m (2,069 ft)
C4AML829 m (2,721 ft)

Required Observers

Slope water scenarios will require a minimum of three NMFS observers for the coordinated surface, aerial, and acoustic monitoring surveys. The NMFS PROP manager will determine the number of observers depending upon the complexity of severance activities and/or structure configuration. In addition to meeting all reporting requirements, the NMFS observers would perform the same functions as the observers in the shelf water scenarios C1 and C3.

Pre-Detonation Monitoring

Before severance charge detonation, NMFS observers will begin a 90–minute surface monitoring survey and a 120–minute (scenario C2) or 150–minute (scenario C4) PAM survey of the impact zone. The surface monitoring will be conducted in the same manner as the C1 and C3 scenarios. Once the surface monitoring is complete (i.e., the impact zone cleared of marine mammals and sea turtles), the acoustic survey will continue while one or two of the NMFS observers transfer to a helicopter to conduct a 30–minute (scenario C2) or 60–minute (scenario C4) aerial monitoring survey. The helicopter will transverse the impact zone at low speed/altitude in a specified grid pattern (Table A–2 of the Appendix to the 2006 Biological Opinion).

The requirements on marine mammal (and sea turtle) sightings for the C1 and C3 scenarios would apply here except that the wait times and aerial survey times differ and PAM is also required (see Table 1).

Post-Detonation Monitoring

Scenarios C2 and C4 both require the same post-detonation monitoring explained for the C1 and C3 scenarios. Scenario C4 also requires a post-post-detonation aerial monitoring survey to be conducted within 2–7 days after detonation activities conclude.

Conducted by helicopter or fixed-wing aircraft, observations are to start at the removal site and proceed leeward and outward of wind and current movement. A 7 nm X 7 nm (13 km X 13 km) grid centered near the removal site will be surveyed. This grid includes 8 parallel transect lines each measuring 7 nm (13 km) long and spaced approximately 7 nm (13 km) apart. Any injured or dead marine mammal (or sea turtle) must be recorded, and if possible, tracked after notifying NMFS SERO. If no marine mammals (or sea turtles) are observed to be dead, injured, distressed, or shocked during either aerial survey, the NMFS observers will record all of the necessary information as detailed in MMS's permit approval letter and guidelines for the preparation of a trip report.

A flowchart of the monitoring process and associated survey times for standard explosive-severance monitoring scenarios C2 and C4 is provided in Figure 7 in MMS' MMPA application.

Reporting Requirements

Operators of explosive-severance activities in the GoM are mandated to abide by the reporting requirements listed in this section. The information collected will be used by MMS and NMFS to continually assess mitigation effectiveness and the level of impacts on marine mammals (and sea turtles).

The reporting responsibilities will be undertaken by the NMFS' marine mammal/sea turtle observer for scenarios B1–E4 (Table 1) and the collected data will be prepared in report form and distributed by the PROP to NMFS, MMS, industry and others.

For very-small blasting scenarios A1–A4, the company observer will be responsible for recording the data and preparing a trip report for submission within 30 days of completion of the severance activities. Trip reports for scenarios A1–A4 will be sent to MMS Gulf and the NMFS SER offices.

In addition to basic operational data (i.e., area and block, water depth, company/platform information, etc.), the observer reports must contain the following information:

• Monitoring • Survey Type pre-detonation
post-detonation
surface, aerial
• Time(s) initiated/terminated
• Marine Conditions (sea state etc.)
• Observed Marine Protected Species (mammals/sea turtles)
• Type/number - basic description or species identification (if possible)
• Location/orientation - inside/outside impact zone, inbound/outbound, etc.
• Any ''halted-detonation'' details - i.e., waiting periods, re-surveys, etc.
• Any ''Take-Event'' details - actual injury/mortality to marine protected species

In the event that a marine mammal (or sea turtle) is discovered stressed, shocked, injured, or dead following the severance activities, the observer will report the incident to MMS and NMFS' SERO at the earliest opportunity.

Research

To help determine the impact zones for the blasting categories, MMS contracted for development of a model that would estimate shock wave and acoustic energy propagation caused by underwater explosive-severance tools (Dzwilewski and Fenton, 2003). As with most ''theoretical'' models developed to consider a wide range of parameters under multiple conditions, the contractor suggested that their modeling results be compared with in-situ data from actual explosive-severance activities. Previous in-situ research had been performed by the Naval Surface Warfare Center (NSWC) for MMS (Conner, 1990), but uncertainties concerning transducer ranging devalued the sediment-attenuation conclusions. Considering the uncertainties, NMFS provided guidance suggesting that additional in-situ data comparison must be conducted.

In November 2002, MMS's TAR Program began working with MMS's GoM Region to modify an existing project designed to develop and test the efficiency of linear shaped charges (Saint-Arnaud *et al.*, 2004; see *http://www.mms.gov/tarprojects/429.htm*). The modifications made it possible to allow BML in-situ data measurements to be taken during the final testing on actual OCS targets. While developing the measurement phase of the project, MMS again coordinated with NMFS to address the concerns expressed over the NSWC's range uncertainties, ultimately modifying field procedures to include the use of a sector-scanning sonar in conjunction with reflectors attached to each transducer array string. The testing was conducted, and Annex B of the project's final report (Appendix C of the Final PEA) compares the peak overpressure (psi), impulse (psi-s), and energy flux density (EFD; psi-in) measurements collected from the testing with calculated results from both the UWC and the applicable NSWC similitude equations.

Since the number of targets, charge sizes, and marine conditions were limited, MMS is working with both industry and acoustic measurement groups to conduct additional research on targets offering a wider range of parameters. Similar to the TAR project, the research program under development will focus on in-situ ''targets-of-opportunity'' offered by industry. As with previous work, the program will use transducer array assemblies to measure, record, and calculate the peak pressure, impulse, and acoustic energy released into the water column from severance charges.

With a greater knowledge of the actual impacts, alternative protective and mitigative measures may be developed in the future. In addition, the potential new information on impact-reducing factors (i.e., lower charge weights, increased BML cut depths, experimental mitigation techniques, etc.) will encourage industry to push research and development of less harmful and more efficient charges.

As a result, NMFS is encouraging MMS to continue its research on the actual impacts of explosive severance activities, including, but not limited to, additional in-situ acoustic measurement testing on decommissioning targets over the 5–year period of these regulations.

Determinations

Based upon information contained in this document, the MMS Final PEA, and the NMFS 2006 BiOp issued under section 7 of the ESA, NMFS has determined that explosive-severance activities in the Gulf of Mexico will result in the taking (by Level A and Level B harassment) of small numbers of marine mammals, but will have no more than a negligible impact on affected marine mammal stocks. Projected Level A harassment takes are very unlikely and would be limited to a total of 7 cetaceans in 3 species over the 5–year period of these regulations. Up to 457 cetaceans in 11 species will be taken by Level B harassment annually. No deaths or serious injuries to marine mammals or sea turtles are projected. If any marine mammals are displaced from preferred habitat, it will be for a short period of time (extending no greater than the structure removal activity itself). No critical habitat is involved in structure removal operations. No effect is projected on annual recruitment or survival. With mitigation measures required by these regulations in place, the taking by Level B harassment will be limited to only small numbers of marine mammals. There will be no effect on subsistence activities described in section 101(a)(5)(A) of the MMPA.

ESA

On August 28, 2006, NMFS' Office of Protected Resources' (OPR) Endangered Species Division concluded consultation with MMS on permitting the removal of offshore oil and gas structures in the U.S. GoM and with NMFS' OPR's Permits, Conservation and Education Division on the issuance of regulations and associated LOAs under those regulations. The finding of that consultation was that this activity is not likely to jeopardize the continued existence of the sperm whale, leatherback sea turtle, hawksbill sea turtle, loggerhead sea turtle, Kemp's ridley sea turtle and green sea turtle. Also, no critical habitat will be affected.

NEPA

MMS completed and released its PEA to the public for review on February 28, 2005. That document is available (see **ADDRESSES**) to the public. On April 7, 2006 (71 FR 17790), NMFS announced that the MMS had prepared a PEA for offshore structure removal activities and noted that this PEA was available upon request.

In accordance with NOAA Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999), NMFS has reviewed the information contained in MMS' PEA and determined that the MMS PEA accurately and completely describes the proposed action alternative, reasonable additional alternatives, and the potential impacts on marine mammals, endangered species, and other marine life that could be impacted by the preferred alternative and the other alternatives. Therefore, NMFS has determined it is not necessary to issue a new EA, supplemental EA or an environmental impact statement for the issuance of LOAs to the oil and gas industry IHA for this activity. Based on this review and analysis, NMFS is adopting MMS' PEA under 40 CFR 1506.3 and has issued a FONSI. A copy of the MMS PEA and the NMFS FONSI for this activity is available upon request (see **ADDRESSES**).

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage, that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities since it would have no effect, directly or indirectly, on small businesses. The factual basis for this certification is found in the proposed rule and is not repeated here. As a result, no final regulatory flexibility analysis was required or prepared.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a 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 OMB control number. This final rule contains collection-of-information requirements subject to the provisions of the PRA. These requirements have been approved by OMB under control number 0648–0151, and include applications for LOAs and reports.

The reporting burden for the approved collections-of-information is estimated to be approximately 3 hours for each company applying for an annual LOA. As in previous years, NMFS expects that up to 30 companies will apply for LOAs annually. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Send comments regarding these burden estimates, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

Changes from the Proposed Rule

In addition to minor edits to the rule for clarification and consistency with the mitigation measures submitted by MMS and considered in this document, NMFS has made the following change to the rule:

1. Modified § 216.210(b) to clarify the species of cetaceans authorized for taking by Level A and Level B harassment.

List of Subjects in 50 CFR Part 216

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: June 12, 2008.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For reasons set forth in the preamble, 50 CFR part 216 is amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

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

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. Subpart R is added and reserved.

■ 3. Subpart S is added consisting of §§ 216.211 through 216.219 to read as follows:

Subpart S—Taking of Marine Mammals Incidental to Explosive Severance Activities Conducted During Offshore Structure Removal Operations on the Outer Continental Shelf in the U.S. Gulf of Mexico

Sec.
216.211 Specified activity and specified geographical region.
216.212 Effective dates.
216.213 Permissible methods of taking.
216.214 Prohibitions.
216.215 Definitions, terms, and criteria.
216.216 Mitigation.
216.217 Requirements for monitoring and reporting.
216.218 Letters of Authorization.
216.219 Renewal and modifications of Letters of Authorization.

Subpart S—Taking of Marine Mammals Incidental to Explosive Severance Activities Conducted During Offshore Structure Removal Operations on the Outer Continental Shelf in the U.S. Gulf of Mexico

§ 216.211 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the incidental taking of those marine mammal species specified in paragraph (b) of this section by U.S. citizens engaged in explosive severance activities conducted during offshore oil and gas structure removal activities in areas within state and Federal waters in the U.S. Gulf of Mexico adjacent to the coasts of Texas, Mississippi, Louisiana, Alabama, and Florida. The incidental, but not intentional, taking of marine mammals by U.S. citizens holding a Letter of Authorization issued pursuant to § 216.218 is permitted during the course of severing pilings, well conductors, and related supporting structures, and other activities related to the removal of the oil and gas structure.

(b) The incidental take of marine mammals under the activity identified in paragraph (a) of this section is limited to a total of 5 bottlenose dolphin, one Atlantic spotted dolphin, and one pantropical spotted dolphin by Level A harassment over the period of validity of these regulations; and Level B harassment of the following species annually: 227 bottlenose dolphins, 65 Atlantic spotted dolphins, 77 pantropical spotted dolphins, 27 Clymene dolphins, 12 rough-toothed dolphins, 14 striped dolphins, 15 melon-headed whales, 10 pilot whales, 5 spinner dolphins, 3 Risso's dolphins, and 2 sperm whales.

§ 216.212 Effective dates.

Regulations in this subpart are effective from July 21, 2008 until July 19, 2013.

§ 216.213 Permissible methods of taking.

The Holder of a Letter of Authorization issued pursuant to § 216.218, may incidentally, but not intentionally, take marine mammals by harassment within the area described in § 216.211(a), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

§ 216.214 Prohibitions.

No person in connection with the activities described in § 216.211(a) shall:

(a) Take any marine mammal not specified in § 216.211(b);

(b) Take any marine mammal specified in § 216.211(b) in a manner or amount greater than described therein;

(c) Take any marine mammal specified in § 216.211(b) if NMFS determines that the taking of marine mammals incidental to the activities described in § 216.211(a) is having more than a negligible impact on the species or stocks of marine mammals;

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter of Authorization issued pursuant to §§ 216.106 and 216.218;

(e) Take any marine mammal in violation of these regulations by using a charge with a weight greater than 500 lbs (227 kg);

(f) Take any marine mammal when conditions preclude conducting mitigation and monitoring requirements of these regulations or a Letter of Authorization.

§ 216.215 Definitions, terms, and criteria

(a) *Definitions.*

(1) *Below-mud-line or BML* means that the explosives are detonated below the water-mud interface, either inside or outside a pipe, other structure or cable.

(2) *Above-mud-line or AML* means that the explosives are detonated in the water column above the water-mud interface, either inside or outside a pipe, other structure or cable.

(3) *Multiple charge detonation* means any explosive configuration where more than one charge is required in a single detonation event.

(4) *Scenario* means an alpha-numeric designation provided to describe charge size, activity location, and target design employed in order to determine the appropriate marine mammal mitigation/monitoring measures.

(b) *Terms*

(1) *Impact zone (required for all scenarios)* means the area around a decommissioning target measured by the horizontal radius, in which a marine mammal could be affected by the pressure or acoustic energy released during the detonation of an explosive-severance charge.

(2) *Predetonation survey (required for all scenarios)* means any marine mammal monitoring survey (e.g., surface, aerial, or acoustic) conducted prior to the detonation of any explosive severance tool.

(3) *Postdetonation survey (required for all scenarios)* means any marine mammal monitoring survey (e.g., surface, aerial, or post-post-detonation aerial) conducted after the detonation event occurs.

(4) *Waiting period (required for all scenarios)* means the amount of time detonation operations must hold before the requisite monitoring survey(s) can be repeated.

(5) *Company observer (for scenarios A1–A4 only)* means trained company observers authorized to perform marine mammal detection surveys only for ''very-small'' blasting scenarios A1–A4.

(6) *NMFS observer (for scenarios B1–E4)* means observers trained and approved by an instructor with experience as a NMFS Platform Removal Observer Program trainer. NMFS observers are required to perform marine mammal detection surveys for all detonation scenarios with the exception of scenarios A1–A4. Two NMFS observers will be assigned to each operation for detection survey duties, except mitigation-scenarios C2, C4, D2, D4, E2, and E4 require a minimum of three NMFS observers for the simultaneous surface, aerial, and acoustic surveys.

(c) *Criteria*

(1) *Blasting category parameters and associated severance scenarios.* To determine the appropriate marine mammal mitigation and monitoring requirements in §§ 216.218 and 216.219, holders of Letters of Authorization for activities described in § 216.211(a) of this subpart must determine, from Table 1 in § 216.217(b)(1), the appropriate explosive severance mitigation/monitoring scenario to follow for the blasting category, species-delineation zone, and charge configuration for their activity.

(2) [Reserved]

§ 216.216 Mitigation.

(a) The activity identified in § 216.211(a) must be conducted in a manner that minimizes, to the greatest extent practicable, adverse impacts on marine mammals and their habitats. When conducting operations identified in § 216.211(a), all mitigation measures contained in this subpart and in the Letter of Authorization issued pursuant to §§ 216.106 and 216.218 must be

implemented. When using explosives, the following mitigation measures must be carried out:

(1)(i) If marine mammals are observed within (or about to enter) the marine mammal impact zone identified in Table 1 in § 216.217(b)(1) column 5 for the relevant charge range and configuration (i.e., BML or AML) for the activity, detonation must be delayed until the marine mammal(s) are outside that zone;

(ii) Pre-detonation surveys shall not begin prior to sunrise and detonations shall not occur if the post-detonation survey cannot be concluded prior to sunset;

(iii) Whenever weather or sea conditions preclude adequate aerial, shipboard or subsurface marine mammal monitoring as determined by the trained observer, detonations must be delayed until conditions improve sufficiently for marine mammal monitoring to be undertaken or resumed;

(iv) Whenever the weather or sea conditions prevent implementation of the aerial survey monitoring required under § 216.217(c)(2), the aerial survey must be repeated prior to detonation of charges; and

(v) Multiple charge detonations must be staggered at an interval of 0.9 sec (900 msec) between blasts.

(2) [Reserved]

(b) If a marine mammal is found seriously injured, or dead, the explosive severance activity will immediately cease and the holder of the Letter of Authorization, designee or the designated lead observer will contact the Minerals Management Service and the Regional Administrator, National Marine Fisheries Service' Southeast Regional Office, or designee at the earliest opportunity. Procedures and monitoring methods will be reviewed and, if necessary, appropriate changes made to the mitigation and monitoring measures prior to conducting the next detonation to avoid future injury or mortality takings.

(c) Any mitigation measures proposed to be contained in a Letter of Authorization that are not specified in this subpart, or not considered an emergency requirement under § 216.219(d), will first be subject to notice and comment through publication in the **Federal Register**, as provided in § 216.219(c).

§ 216.217 Requirements for monitoring and reporting.

(a) Holders of Letters of Authorization issued for activities described in § 216.211(a) are required to cooperate with the National Marine Fisheries Service, and any other Federal, state or local agency with regulatory authority over the offshore oil-and-gas activities for the purpose of monitoring the impacts of the activity on marine mammals.

(b)(1) Table 1 summarizes the required mitigation and monitoring survey modes, duration and zones for all blasting scenarios of marine mammal impact zones for implementation of surface and aerial monitoring requirements depending upon charge weight and severance scenario.

(2) Holders of Letters of Authorization must fully comply with the relevant mitigation and monitoring program for the explosive-severance activity described in subparagraph (c) of this paragraph that corresponds to the holder of the Letter of Authorization's blast scenario shown in Table 1.

TABLE 1. BLAST CATEGORIES, MITIGATION SCENARIOS, SURVEY AND TIME REQUIREMENTS FOR ALL EXPLOSIVE SEVERANCE SCENARIOS.[1]

Blasting Category	Configuration (Charge wt/ placement)	Species Delineation Zone	Mitgation Scenario	Impact Zone Radius	Pre Det Surface Survey (min)	Pre Det Aerial Survey (min)	Pre Det Acoustic Survey (min)	Post Det Surface Survey (min)	Post Det Aerial Survey (min)	Post Post Det Aerial Survey (Yes/No)	Waiting Period (min)
	BML	Shelf (<200 m)	A1	261 m	60	N/A	N/A	30	N/A	No	30
Very-	(0-10 lb)	Slope (>200 m)	A2	(856 ft)	90	N/A	N/A	30	N/A	No	30
Small	AML	Shelf (<200 m)	A3	293 m	60	N/A	N/A	30	N/A	No	30
	(0-5 lb)	Slope (>200 m)	A4	(961 ft)	90	N/A	N/A	30	N/A	No	30
	BML	Shelf (<200 m)	B1	373 m	90	30	N/A	N/A	30	No	30
Small	(>10-20 lb)	Shelf (>200 m)	B2	(1,224 ft)	90	30	N/A	N/A	30	No	30
	AML	Shelf (<200 m)	B3	522 m	90	30	N/A	N/A	30	No	30
	(>5-20 lb)	Slope (>200 m)	B4	(1,714 ft)	90	30	N/A	N/A	30	No	30
	BML	Shelf (<200 m)	C1	631 m	90	30	N/A	N/A	30	No	30
Standard	(>20-80 lb)	Slope (>200 m)	C2	(2,069 ft)	90	30	120	N/A	30	No	30
	AML	Shelf (<200 m)	C3	829 m	90	45	N/A	N/A	30	No	30
	(>20-80 lb)	Slope (>200 m)	C4	(2,721 ft)	90	60	150	N/A	30	Yes	45
	BML	Shelf (<200 m)	D1	941 m	120	45	N/A	N/A	30	No	30
Large	(>80-200 lb)	Slope (>200 m)	D2	(3,086 ft)	120	60	180	N/A	30	Yes	45
	AML	Shelf (<200 m)	D3	1,126 m	120	60	N/A	N/A	30	No	30
	(>80-200 lb)	Slope (>200 m)	D4	(3,693 ft)	150	60	210	N/A	30	Yes	45
	BML	Shelf (<200 m)	E1	1,500 m	150	90	N/A	N/A	45	No	45
Specialty	(>200-500 lb)	Slope (>200 m)	E2	(4,916 ft)	180	90	270	N/A	45	Yes	45
	AML	Shelf (<200 m)	E3	1,528 m	150	90	N/A	N/A	45	No	45
	(>200-500 lb)	Slope (>200 m)	E4	(5,012 ft)	180	90	270	N/A	45	Yes	45

[1] Severance of subsea structures that do not penetrate the sea surface will follow the mitigation scenario for above mudline (AML) detonations even if charges are placed below mudline.

(c) Holders of Letters of Authorization must ensure that the following monitoring programs are conducted as appropriate for the required monitoring scenario.

(1) *Surface monitoring survey.* A surface monitoring survey must be conducted for the length of time that corresponds to the relevant explosive severance scenario. Surface monitoring surveys are to be conducted from the highest vantage point and/or other location(s) that provide the best, clear view of the entire impact zone. These vantage points may be on the structure being removed or proximal surface vessels (i.e., crewboats, derrick barges, etc.). Surface surveys are restricted to daylight hours only, and the monitoring will cease if the designated lead observer determines that weather or marine conditions are not adequate for visual observations.

(2) *Aerial monitoring survey.* Aerial surveys are required for all explosive severance scenarios except monitoring scenarios A1–A4. Aerial monitoring surveys are to be conducted from helicopters running standard low-altitude search patterns over the extent of the impact zone that corresponds to the appropriate explosive severance scenario. Aerial surveys will be restricted to daylight hours only (defined as ''legal sunrise'' to ''legal sunset''), and cannot begin until the requisite surface monitoring survey has been completed. Aerial surveys will cease if the designated lead observer determines that weather or marine conditions are not adequate for visual observations, or when the pilot/removal supervisor determines that helicopter operations must be suspended.

(3) *Acoustic monitoring survey.*

(i) Acoustic monitoring surveys are required to be conducted on all Standard, Large, and Specialty blasting scenarios conducted at slope (≤200 m (656 ft)) locations (i.e., scenarios C2, C4, D2, D4, E2, and E4).

(ii) Persons conducting acoustic surveys will be required to comply with NMFS-approved passive acoustic monitoring protocols and use approved devices and technicians.

(iii) Acoustic surveys will be run concurrent with requisite pre-detonation surveys, beginning with the surface observations and concluding at the finish of the aerial surveys when the detonation(s) is allowed to proceed.

(4) Post-detonation surface monitoring survey. A 30–minute post-detonation surface survey must be conducted by the trained company observer for scenarios A1 – A4 immediately upon conclusion of the detonation.

(5) Post-detonation aerial monitoring survey. For scenarios B1–D4, a 30–minute aerial survey must be conducted immediately upon conclusion of the detonation. For scenarios E1–E4, a 45–minute aerial survey must be conducted immediately upon conclusion of the detonation.

(6) Post-post-detonation aerial monitoring survey. Post-post-detonation aerial monitoring surveys must be conducted for scenarios C4, D2, D4, E2 and E4 within 2–7 days after detonation activities conclude, by either helicopter or fixed-wing aircraft. Observations are to start at the removal site and proceed leeward and outward of wind and current movement. Any distressed, shocked, injured or dead marine mammals will be noted in the survey report, and if possible, tracked and collected after notifying the National Marine Fisheries Service within the time requirements stated in § 216.217(f).

(7) If unforeseen conditions or events occur during an explosive severance operation that may necessitate additional monitoring not specified in this paragraph, the designated NMFS lead observer will contact the appropriate National Marine Fisheries Service and Minerals Management Service personnel as detailed in the Letter of Authorization for additional guidance.

(d) Holders of Letters of Authorization must conduct all monitoring and research required under the Letter of Authorization. Any monitoring or research measures proposed to be contained in a Letter of Authorization that are not specified in this subpart or not considered an emergency requirement under § 216.218(d), will first be subject to public notice and comment through publication in the **Federal Register**, as provided by § 216.219(c).

(e) *Reporting* (1) A report summarizing the results of structure removal activities, mitigation measures, monitoring efforts, and other information as required by a Letter of Authorization, must be submitted to the Director, Office of Protected Resources, within 30 days of completion of the removal activity.

(2) The National Marine Fisheries Service will accept the NMFS observer report as the activity report required by subparagraph (1) of this paragraph if all requirements for reporting contained in the Letter of Authorization are provided to the NMFS observer before the NMFS observer's report is submitted to the PROP Manager.

(3) If a marine mammal is found shocked, injured, or dead, the Holder of the Letter of Authorization, or designee, must report the incident to the National Marine Fisheries Service Southeast Regional Office, at the earliest opportunity.

§ 216.218 Letters of Authorization.

(a) To incidentally take marine mammal species listed in § 216.211(b) pursuant to these regulations, each company or contractor responsible for the removal of the structure or an industry-related seafloor obstruction in the area specified in § 216.211(a) must apply for and obtain either a Letter of Authorization in accordance with § 216.106 or a renewal under § 216.219(a).

(b) An application for a Letter of Authorization must be submitted to the National Marine Fisheries Service at least 30 days before the explosive removal activity is scheduled to begin.

(c) Issuance of a Letter of Authorization and renewal of a Letter of Authorization under § 216.219(a) will be based on a determination by the National Marine Fisheries Service that the number of each species or stock of cetaceans taken annually by the activity will be small and that the total taking over the 5–year period will have a negligible impact on the species or stock of affected marine mammal(s).

(d) A Letter of Authorization may be renewed annually, subject to conditions in § 216.219(a).

(e) A Letter of Authorization for activities in this subpart will not be valid after the effective period of this subpart.

(f) A copy of the Letter of Authorization must be in the possession of the persons conducting the activity specified in § 216.211(a) that may involve incidental takings of marine mammals.

(g) Notice of issuance or denial of a Letter of Authorization will be published in the **Federal Register** within 30 days of a determination.

§ 216.219 Renewal and modifications of Letters of Authorization.

(a) A Letter of Authorization issued for the activity identified in § 216.211(a) will be renewed annually upon:

(1) Receipt of an application for renewal of a Letter of Authorization under § 216.218.

(2) Timely receipt of the report(s) required under § 216.217(f), which have been reviewed by the Assistant Administrator and determined to be acceptable; and

(3) A determination that the required mitigation, monitoring and reporting measures have been undertaken.

(b) Notice of issuance of a renewal of the Letter of Authorization will be

published in the **Federal Register** within 30 days of issuance.

(c) In addition to complying with the provisions of § 216.106, except as provided in paragraph (d) of this section, no substantive modification, including a request for a variance in the mitigation or monitoring requirements in this subpart or a withdrawal or suspension of the Letter of Authorization issued pursuant to § 216.106 and subject to the provisions of this subpart, shall be made until after notice and an opportunity for public comment. For purposes of this paragraph, renewal of a Letter of Authorization under § 216.219, without modification other than an effective date change, is not considered a substantive modification.

(d) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 216.211(b), a Letter of Authorization issued pursuant to §§ 216.106 and 216.118, or renewed pursuant to this paragraph may be modified without prior notice and opportunity for public comment. A notice will be published in the **Federal Register** subsequent to the action.

[FR Doc. E8–13898 Filed 6–18–08; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 119
Thursday, June 19, 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.

FEDERAL TRADE COMMISSION

16 CFR Part 437

[Project No. R511993]
RIN 3084-AB04

Business Opportunity Rule

AGENCY: Federal Trade Commission.

ACTION: Extension of period to submit rebuttal comments in response to the Revised Notice of Proposed Rulemaking.

SUMMARY: In a **Federal Register** notice published on March 26, 2008,[1] the FTC requested comment on its Revised Notice of Proposed Rulemaking (''RNPR'' or ''Notice'') in connection with the Business Opportunity Rule. The Notice stated that comments must be submitted on or before May 27, 2008, and that rebuttal comments must be submitted on or before June 16, 2008. In response to a request to extend the rebuttal comment period received on June 5, 2008, the Commission has extended the rebuttal comment period for an additional 15 days.

DATES: Rebuttal comments addressing the Revised Notice of Proposed Rulemaking published at 73 FR 16110 for the Business Opportunity Rule must be submitted on or before July 1, 2008.

ADDRESSES: Interested parties are invited to submit written rebuttal comments. Comments should refer to ''Business Opportunity Rule: File No. R511993'' and may be submitted by any of the following methods. If, however, the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled ''Confidential.''[2]

1. Web Site: Comments filed in electronic form should be submitted by using the following web link: (*https://secure.commentworks.com/ftc-bizopRNPR/*) and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink (*https://secure.commentworks.com/ftc-bizopRNPR/*). If this notice appears at *http://www.regulations.gov*, you may also file an electronic comment through that website. The Commission will consider all comments that *regulations.gov* forwards to it. You may also visit the FTC website at (*http://www.ftc.gov/opa/2008/03/busrule.shtm*) to read the RNPR and the news release describing it.

2. Mail or Hand Delivery: A comment filed in paper form should include ''Business Opportunity Rule: File No. R511993'' both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex S), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The Commission is requesting that any comment filed in paper form be sent by courier or overnight service, if possible.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments will be considered by the Commission and will be available to the public on the FTC website, to the extent practicable, at *http://www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*).

FOR FURTHER INFORMATION CONTACT: Monica Vaca (202) 326-2245, Division of Marketing Practices, Room 286, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On March 26, 2008, the Commission published a Revised Notice of Proposed Rulemaking (''RNPR'' or ''Notice''), 73 FR 16110, which solicited comment on a revised proposal for the Business Opportunity Rule. The Notice stated that the period for submitting initial comments on this proposal would close on May 27, 2008, and that the period for submitting rebuttal comments would close on June 16, 2008.

On June 5, 2008, the Commission received a request from Venable LLP (''Venable'') seeking a 30-day extension of the rebuttal comment period. In support of its extension request, Venable argues that there were numerous substantive comments submitted in the initial comment period that merit rebuttal. Nevertheless, the bulk of the initial comments were submitted on the last day of the comment period and were unavailable for public viewing for about one week after the comment period closed. Thus, Venable seeks an extension.

The Commission believes that a 15-day extension should be sufficient to enable Venable and all other commenters to prepare and submit rebuttal comments without unduly delaying the progress of this proceeding. Accordingly, the Commission has determined to extend the rebuttal comment period until July 1, 2008.

By direction of the Commission.

Donald S. Clark,
Secretary.

[FR Doc. E8–13899 Filed 6–18–08: 8:45 am]

BILLING CODE 6750–01–S

[1] The Notice was announced in a press release on March 18, 2008, available at: (*http://www.ftc.gov/opa/2008/03/busrule.shtm*) (''Press Release'').

[2] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 C.F.R 4.9(c) (2008).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. FDA–2008–N–0297]

RIN 0910–AF95

Status of Certain Additional Over-the-Counter Drug Category II Active Ingredients

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing that certain ingredients in over-the-counter (OTC) drug products are not generally recognized as safe and effective (GRASE) or are misbranded. FDA is issuing this proposed rule because we did not receive any data and information on these ingredients in response to our request on December 31, 2003 (68 FR 75585). This proposed rule is part of FDA's ongoing review of OTC drug products.

DATES: Submit written or electronic comments on the proposed rule and on FDA's economic impact determination by September 17, 2008. Please see section IV of this document for the proposed effective date of any final rule that may publish based on this proposal.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2008–N–0297 and RIN number 0910–AF95, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

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

Written Submissions

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal, as described previously, in the **ADDRESSES** portion of this document under *Electronic Submissions*.

Instructions: All submissions received must include the agency name, docket number, and Regulatory Information Number (RIN) for this rulemaking and may be accompanied by a supporting memorandum or brief. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson or Gerald M. Rachanow, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, MS5411, Silver Spring, MD 20993, 301–796–2090.

SUPPLEMENTARY INFORMATION:

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I. What is the Purpose of This Document?

In this rule, FDA proposes to add to § 310.545 (21 CFR 310.545) certain ingredients and categories of OTC drug products that are not GRASE and are misbranded in the absence of an approved new drug application (NDA):

Ingredients

- Any external analgesic drug products containing aloe vera or urea
- Any topical antimicrobial drug products containing aloe vera
- Any drug products containing urea for any labeled claims
- Ammonia as a reflex stimulant

Drug Categories

- All skin protectant blister guard drug products
- Any skin protectant drug products labeled with claims or directions for use as a nipple protectant (previously referred to as breast creams for use when nursing), except lanolin
- Any drug products formulated as a wet dressing other than skin protectant and astringent drug products formulated and labeled in accordance with 21 CFR part 347
- Any drug products labeled with claims or directions for the following uses:
  - Bed-wetting deterrent
  - Blemish remedy other than topical acne drug products formulated and labeled in accordance with 21 CFR part 333, subpart D
  - Bunion remedy
  - Drawing salve (for drawing or removing splinters, slivers, or similar items), except ichthammol
  - Foot balm, bath, or other topical dosage forms for any ''foot'' claims (including relieving foot muscle strains and soreness from working out), other than topical antifungal drug products formulated and labeled in accordance with 21 CFR part 333, subpart C and external analgesic drug products formulated and labeled in accordance with the tentative final monograph (proposed 21 CFR part 348) published on February 8, 1983 (48 FR 5852)
  - Impotency cure
  - Medicated bath preparation
  - Nonantimicrobial skin wound cleanser (previously listed as ''detergents'' in call-for-data notices
  - Topical products for treatment or prevention of male urethral problems
  - Treatment or prevention of prickly heat
  - Urinary acidifier
  - Urinary alkalinizer
  - Weight control drug products with ingredients formulated as an impregnated body wrap
  - Wound wash saline

FDA notes that the names of several active ingredients have changed from the way they appeared in the December 31, 2003, call-for-data notice. FDA is using the new names in the proposed amendments to § 310.545. Table 1 lists the old and new ingredient names:

TABLE 1.—ACTIVE INGREDIENTS WITH NAME CHANGES

Old name	Current name	Category
Aromatic spirits of ammonia	Ammonia spirit, aromatic	Ammonia as a reflex stimulant

TABLE 1.—ACTIVE INGREDIENTS WITH NAME CHANGES—Continued

Old name	Current name	Category
Benzophenone-3	Oxybenzone	Medicated bath
Carbolic acid	Phenol	Foot balm, bath
Formalin	Formaldehyde solution	Foot balm, bath
Natural pine needle oil	Pine needle oil	Foot balm, bath
Oil of eucalyptus	Eucalyptus oil	Foot balm, bath
Oil of peppermint	Peppermint oil	Foot balm, bath
Peru balsam	Peruvian balsam	Medicated bath
Phenol sodium	Phenolate sodium	Nonantimicrobial skin wound cleanser
Trisodium phosphate	Sodium phosphate, tribasic	Foot balm, bath

FDA is proposing that any OTC drug product containing any of these ingredients that are not considered GRASE for the uses discussed in this document must first be the subject of an approved NDA before it may be initially introduced (or initially delivered for introduction) into interstate commerce.

The following product categories, for which data were submitted in response to the December 31, 2003, call-for-data notice, will be discussed in future issues of the **Federal Register**: Lubricants and vaginal moisturizers, nasal moisturizers, urinary analgesics/antiseptics, wrinkle removers, lanolin as a nipple protectant, and ichthammol as a drawing salve. FDA is not discussing those product categories, or specific active ingredients in those categories, in this document.

II. What Past FDA Actions Are Relevant to This Proposed Rule?

A. What Categories of Products Were Included in the Call-for-Data Notice?

In the **Federal Register** of December 31, 2003, FDA published a call for data for certain categories of ingredients in OTC drug products that FDA had not reviewed to date. We listed the following 22 categories (68 FR 75585 at 75589 to 75590): Ammonia as a reflex stimulant; bed-wetting deterrents; blemish remedies (excluding topical acne active ingredients in § 310.545(a)(1) and § 333.310 (21 CFR 333.310)); breast creams (for use when nursing) (now called ''nipple protectants''); bunion remedies; drawing salves (excluding products labeled for the treatment of boils in 21 CFR 310.531 and including products labeled for the drawing or removal of splinters, slivers, or similar items); foot balms, baths, and creams (excluding topical antifungal active ingredients in § 310.545(a)(22) and § 333.210 (21 CFR 333.210) and including claims for relieving foot muscle strains and soreness from working out); impotency cures; impregnated body wraps for weight reduction; lubricants and vaginal moisturizers; medicated bath preparations; nasal moisturizers; nonantimicrobial skin wound cleansers; prickly heat products; skin protectant blister guard; urethral creams for males; urinary acidifiers; urinary alkalinizers; urinary analgesics/antiseptics; wet dressings (excluding astringent active ingredients in § 310.545(a)(18)(ii) and § 347.10 (21 CFR 347.10)); wound wash saline; and wrinkle removers. Most categories identified in the call for data included a list of specific active ingredients for review.

FDA also requested the submission of data and information (68 FR 75585 at 75588) on:

- Aloe vera as an active ingredient in OTC topical antimicrobial and external analgesic drug products
- Urea as an active ingredient in OTC external analgesic drug products, or for any other OTC drug use

FDA invited interested persons to submit data and information on these categories and ingredients by June 28, 2004.

B. What Data Were Submitted in Response to the Call-for-Data Notice?

Data were submitted for the following product categories: Nipple protectants (for use when nursing); drawing salves labeled for the drawing or removal of splinters, slivers, or similar items; lubricants and vaginal moisturizers; nasal moisturizers; urinary analgesics/antiseptics; and wrinkle removers. For two of the product categories, FDA received data and information on only one ingredient in each category. In the category of nipple protectants, FDA received data on a product containing lanolin. FDA did not receive any data or information on the following ingredients that were listed for the nipple protectant category in the call-for-data notice: Cetyl alcohol, cocoa butter, cod liver oil, dimethicone, glycerin, glyceryl monostearate, hard fat, mineral oil, petrolatum, and white petrolatum. In the category of drawing salves, FDA received data on a product containing ichthammol. FDA did not receive any data or information on the following ingredients that were listed for the drawing salves category in the call-for-data notice: Ergot fluid extract, juniper tar (oil of cade), magnesium sulfate, pine tar, rosin, rosin cerate, and sulfur. Based on the submissions received, the following products are not included in this proposed rule and will be discussed in a future issue of the **Federal Register**: Lubricants and vaginal moisturizers, nasal moisturizers, urinary analgesics/antiseptics, wrinkle removers, lanolin for use as a nipple protectant, and ichthammol for use in drawing salves.

FDA did not receive any data or information on products or active ingredients in the following product categories: Ammonia as a reflex stimulant; bed-wetting deterrents; blemish remedies (excluding topical acne active ingredients in § § 310.545(a)(1) and 333.310); bunion remedies; foot balms, baths, and creams (excluding topical antifungal active ingredients in § § 310.545(a)(22) and 333.210 and including claims for relieving foot muscle strains and soreness from working out); impotency cures; impregnated body wraps for weight reduction; medicated bath preparations; nonantimicrobial skin wound cleansers; prickly heat products; skin protectant blister guard; urethral creams for males; urinary acidifiers;

urinary alkalinizers; wet dressings (excluding astringent active ingredients in § § 310.545(a)(18)(ii) and 347.10); and wound wash saline. FDA also did not receive any data or information on aloe vera and urea for topical uses. Therefore, FDA has no data and information to review to determine if any of these products or ingredients are GRASE and not misbranded for OTC use.

III. What Is the Regulatory Process When No Data Are Submitted to Support Ingredients?

Under the procedures for classifying OTC drugs as GRASE and not misbranded and for establishing OTC drug monographs (§ 330.10 (21 CFR 330.10)):

- An advisory review panel reviews the data and information submitted in response to a call for data and then submits a report with its recommendations to the Commissioner of Food and Drugs (the Commissioner) (§ 330.10(a)(2), (a)(3), and (a)(5)).
- After reviewing the advisory review panel's report and recommendations, the Commissioner publishes a proposed order with the panel's report and a monograph listing proposed GRASE conditions and a statement of the proposed nonmonograph conditions (§ 330.10(a)(6)).
- After reviewing comments and new data submitted in response to the publication of the advisory review panel's report, the Commissioner publishes a tentative final monograph (TFM) proposing conditions under which a category of drugs or specific OTC drugs are GRASE and not misbranded (§ 330.10(a)(7)(i)).
- The Commissioner may also publish a separate tentative order, such as this document, containing a statement of those active ingredients reviewed and proposed to be excluded from the monograph because they would result in a drug product not being GRASE or would result in misbranding. This order may be published when FDA receives no substantive comments in opposition to the advisory review panel's report or no new data and information (§ 330.10(a)(7)(ii)).
- After reviewing the entire administrative record, the Commissioner publishes a final order containing a monograph establishing conditions under which a category of OTC drugs or a specific or specific OTC drugs are GRASE and not misbranded (§ 330.10(a)(9)). If there are no GRASE conditions, the Commissioner includes the category or the specific OTC drugs in § 310.545, which lists active ingredients for which the data are inadequate to establish GRASE status (i.e., identifies nonmonograph ingredients and uses).

FDA did not receive any data and information on most of the ingredients and drug categories in the call-for-data notice for an advisory review panel to evaluate and upon which a panel could issue a report. Thus, for those ingredients and drug categories, there is no data or report for the Commissioner to evaluate and no basis for FDA to publish a TFM. Therefore, the Commissioner is publishing a tentative order (proposed rule) listing these ingredients and drug categories as nonmonograph conditions.

IV. What Is FDA's Proposed Effective Date?

FDA is proposing that any final rule that may issue based on this proposal be implemented 180 days after its publication in order to provide for safe and effective use of OTC drug products at the earliest possible time. Manufacturers are encouraged to comply voluntarily at the earliest possible date.

FDA points out that publication of a final rule under this proceeding would not preclude a manufacturer from testing an ingredient to support future use. Where a manufacturer believes it has adequate data to establish that an active ingredient is GRASE when used for a specific indication, such data may be submitted in an appropriate citizen petition to amend or to establish an OTC drug monograph, as appropriate (see 21 CFR 10.30). Data to support safety and effectiveness can be developed under an investigational new drug (IND) application to support submission and review of an NDA. An NDA, if approved, would make the drug eligible for prescription or OTC marketing status. For ingredients subject to a final monograph, an NDA may be submitted for a deviation from the monograph (see 21 CFR 330.11 describing an NDA deviation). A product cannot continue to be marketed legally while FDA reviews a petition or NDA.

V. Analysis of Impacts

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

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because few products will likely be affected and those effects would probably be small, FDA does not believe that this proposed rule would have a significant economic impact on a substantial number of small entities. FDA requests comment on this issue.

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 million, using the most current (2006) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

The purpose of this proposed rule is to classify OTC drug products containing certain active ingredients as not GRASE (i.e., nonmonograph) for certain uses for which FDA did not receive any safety and effectiveness data and information. This proposed rule amends § 310.545 to include these product categories and ingredients.

We are not able to identify the number of products that would be affected by this proposed rule, but the number is probably low. Based on our experience, when no data are received after a **Federal Register** request, it often indicates that manufacturers have little or no interest in those ingredients, have phased out or are in the process of phasing out those ingredients, or in some cases are removing the drug claims at issue from the product label. Without actually reading the label for each and every manufacturer's product, we cannot distinguish the numbers of products containing the proposed nonmonograph ingredients from those with monograph ingredients. In addition, some of the affected products are sold alongside cosmetics and drug-cosmetic combination products and we would need to read the actual labels to determine their classifications.

Many of the products affected could still be marketed as OTC drugs if they

were reformulated with an active ingredient that is contained in a monograph and complied with that monograph's labeling conditions. For example, blemish remedies covered by this proposal could be reformulated to contain a topical acne active ingredient included in § 333.310. Other products could be marketed as cosmetics, some with a simple label change and no reformulation. For example, some foot balms and baths covered by this proposal might be able to be marketed as cosmetic products with certain label changes (i.e., deletion of any drug claims). For a few of the product categories, such as bed wetting deterrents and impotency cures, there are currently no OTC drug substitute products on the market, but there are prescription drugs approved for the conditions.

A. What Are the Costs and Benefits Associated With This Proposed Rule?

For products that cannot be reformulated or relabeled to remain on the market, the cost of the rule is the short-run loss of economic profits from the lost sales of those goods once they are removed from the market. Over the long-run, however, manufacturers will be able to produce alternative goods on their existing equipment to partly or fully offset these losses. For the products that remain on the market, the costs include one-time costs to reformulate or relabel the product. We do not know the number of manufacturers that would be affected or the number of products and stockkeeping units (SKUs) (individual products, packages, and sizes) that might need to be relabeled. Many of the products in these categories were probably discontinued some time ago but a few manufacturers will continue to market them until a final rule prohibits such marketing.

The one-time costs to relabel a product include designing the new carton and the inventory loss of any unused current labeling. FDA assumes the same weighted average cost to relabel, inflated to reflect current (2006) dollars, that it estimated for the final rule requiring uniform label formats of OTC drug products (64 FR 13254 at 13279 to 13281, March 17, 1999) (i.e., $3,600 x 1.22), $4,392 per SKU.[1] We also have estimated inventory loss using data from a study of the costs of the uniform label format rule. With a 6-month implementation period, we have estimated the inventory loss to be between $610 and $3,660 per SKU, depending on product sales, for an estimated weighted average inventory loss of $1,220.[2] For example, if there were 100 SKUs that needed to be relabeled, the total one-time incremental costs would be about $561,200 (100 x ($4,392 + $1,220)).

The cost to reformulate an OTC drug product varies greatly depending on the nature of the product, dosage form, availability of alternative active ingredients, and size of company. If there are monograph ingredients available in the affected product category, the reformulation costs for another product (such as product validation, stability testing, and change in master production documents) would range from $100,000 to $500,000.[3] The decision to reformulate would depend on the manufacturer's product portfolio and projected sales for the reformulated product. Using the midpoint of the range, $300,000, if there were 50 products reformulated the total incremental costs would be about $15 million ($300,000 x 50).

We are not able to estimate the total foregone economic profit from the lost sale of products that would be discontinued by the manufacturers, but sales of the products affected by the proposed rule were never large relative to other OTC drug products. The loss would be largely a short-run loss because other products, including OTC drugs, cosmetics, and dietary supplements, could be manufactured on the same equipment as the replaced products. In addition, manufacturers could increase production of some of their other existing products or conduct contract manufacturing for other products.

FDA cannot quantify the benefits associated with this proposed rule. Potential benefits include removal from the market of OTC drug products or ingredients that have not been shown to be safe and effective. For the classes of products affected by this proposed rule, consumers would have substitute products available, either OTC or by prescription. The potential benefits from the rule would result from those substitute products having been shown to be safe and effective.

B. What Regulatory Alternatives Has FDA Considered?

We have few alternatives available to us when we determine there are no data or qualitative information available to demonstrate a product's safety and effectiveness. Even without evidence of harm caused by the use of these products, they cannot remain on the market because there is no evidence that they are safe and effective. The two most plausible regulatory alternatives to this proposed rule are a shorter and a longer implementation period. With a shorter implementation period, the products at issue would be removed from the market sooner, but the labeling costs for 100 SKUs would rise to $622,000 with a 3-month compliance period.[4] We could allow a longer implementation period so manufacturers could reduce their inventory of cartons and labels. Costs for relabeling 100 SKUs would fall to $500,200 with a 12-month compliance period, but consumers would be exposed to these products that have not been shown to be safe and effective for a longer period of time. Furthermore, it is probable that few products will, in fact, bear substantial labeling costs. Manufacturers have been aware of the status of these ingredients since the December 31, 2003, call-for-data notice and have had sufficient notice and time to adjust their supply of labels to limit the impact in the event this rule becomes final. The 6-month implementation period used in the cost model probably understates the actual average time that manufacturers will have to change labels.

C. What is the Small Business Impact?

The Small Business Administration defines an entity as small in the pharmaceutical manufacturing industry if it has fewer than 750 employees. Over 90 percent of firms in the pharmaceutical industry are classified as small. We assume that 90 to 100 percent of the entities that would be affected by this proposed rule are also small.

The economic impact on individual firms will vary based on the number of affected products they manufacture, and how they respond to the rule. Their response could be to withdraw, relabel, or reformulate the product. If a small entity withdraws the product, its production line could be used for alternative OTC drug, dietary supplement, and cosmetic products, or

[1] The annual Producer Price Index (PPI) for pulp, paper, and allied products, series Id: WPU09 (the major cost driver for labeling) rose by 22 percent between 1998 and 2006 (from 174.1 to 209.8) *http://data.bls.gov*.

[2] The original values from the uniform label formats rule (64 FR 13254), inventory loss between $500 and $3,000 and a weighted average of $1,000, were inflated by 22 percent. The weighting ratio for calculating the average was 80 percent small and private label firms to 20 percent large firms.

[3] Value based on previously published estimations (70 FR 75988 at 75995, December 22, 2005 and 67 FR 78158 at 78167, December 23, 2002).

[4] The weighted average inventory loss would increase to $1,830 per SKU with a 3-month compliance period, but decrease to the irreducible (label inventory can never be used up entirely so whenever there are label changes, there is always some portion of inventory that is scraped) inventory loss of $610 per SKU with a compliance period of 12 months or longer.

for contract manufacturing in those industries, thereby limiting economic losses. Labeling costs due to the proposed rule, as explained in this section, would likely be small. The largest potential cost would be reformulation. However, we do not know if a sufficient number of small entities would reformulate a large enough number of products to constitute a significant economic impact on a substantial number of small entities. FDA requests comment on this issue.

VI. Paperwork Reduction Act of 1995

This proposed rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VII. Environmental Impact

FDA has determined under 21 CFR 25.31(a) 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.

VIII. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the proposed rule, if finalized as proposed, would 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 751 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 379r) is an express preemption provision. Section 751(a) of the act (21 U.S.C. 379r(a)) provides that '' * * * no State or political subdivision of a State may establish or continue in effect any requirement— * * * (1) that relates to the regulation of a drug that is not subject to the requirements of section 503(b)(1) or 503(f)(1)(A); and (2) that is different from or in addition to, or that is otherwise not identical with, a requirement under this Act, the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 *et seq.*), or the Fair Packaging and Labeling Act (15 U.S.C. 1451 *et seq.*).''

Currently, this provision operates to preempt States from imposing requirements related to the regulation of nonprescription drug products. (See Section 751(b) through (e) of the act for the scope of the express preemption provision, the exemption procedures, and the exceptions to the provision.) This proposed rule, if finalized as proposed, would classify as not GRASE all of the ingredients in the product categories listed in the December 31, 2003, request for data and information for which FDA did not receive any data and information. Although any final rule would have a preemptive effect, in that it would preclude States from issuing requirements related to these OTC drug products that are different from or in addition to, or not otherwise identical with a requirement in the final rule, this preemptive effect is consistent with what Congress set forth in section 751 of the act. Section 751(a) of the act displaces both State legislative requirements and State common law duties. We also note that even where the express preemption provision is not applicable, implied preemption may arise. *See Geier v. American Honda Co.,* 529 US 861 (2000).

FDA believes that the preemptive effect of the proposed rule, if finalized as proposed, would be 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.'' FDA is providing an opportunity for State and local officials to comment on this rulemaking.

List of Subjects in 21 CFR Part 310

Administrative practice and procedure, Drugs, Labeling, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 310 be amended as follows:

PART 310—NEW DRUGS

1. The authority citation for 21 CFR part 310 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 360b–360f, 360j, 361(a), 371, 374, 375, 379e; 42 U.S.C. 216, 241, 242(a), 262, 263b–263n.

2. Section 310.545 is amended by redesignating the text of paragraph (a)(20) as paragraph (a)(20)(i), by adding new paragraph (a)(20)(i) heading, by adding and reserving paragraph (a)(20)(ii), by adding paragraphs (a)(10)(viii), (a)(18)(vii), (a)(18)(viii), (a)(20)(iii), (a)(27)(iii), (a)(30) through (a)(45), and (d)(52), and by revising paragraph (d) introductory text and paragraph (d)(2) to read as follows:

§ 310.545 Drug products containing certain active ingredients offered over-the-counter (OTC) for certain uses.

(a) * * *

(10) * * *

(viii) *Aloe vera and urea drug products.* Any product labeled with claims or directions for use as an external analgesic.

* * * * *

(18) * * *

(vii) *Blister guard drug products—Approved as of* (date 180 days after publication of a final rule in the **Federal Register**).

Beta-hydroxyquinolone

Eugenol

Pyroxylin solution

Any other ingredient labeled with claims or directions for use as a skin protectant blister guard

(viii) *Nipple protectant drug products (in association with breast feeding)—Approved as of* (date 180 days after publication of a final rule in the **Federal Register**).

Cetyl alcohol

Cocoa butter

Cod liver oil

Dimethicone

Glycerin

Glyceryl monostearate

Hard fat

Mineral Oil

Petrolatum

White petrolatum

* * * * *

(20) *Weight control drug products.*—(i) *Ingredients—Approved as of February 10, 1992.*

* * * * *

(iii) *Impregnated body wraps—Approved as of* (date 180 days after publication of a final rule in the **Federal Register**).

Amino acids

Collagen

Magnesium sulfate

Any other ingredient labeled with claims or directions for use for weight control

* * * * *

(27) * * *

(iii) *Aloe vera drug products.* Any product labeled with claims or directions for use as a topical antimicrobial.

* * * * *

(30) *Ammonia as a reflex stimulant.*

Ammonia inhalants

Ammonia spirit, aromatic

Any other ammonia ingredient labeled with claims or directions for use as a reflex stimulant

(31) *Bed-wetting deterrents.*

Belladonna

Any other ingredient labeled with claims or directions for use as a bed-wetting deterrent

(32) *Blemish remedies (excluding topical acne active ingredients in paragraph (a)(1) of this section and § 333.310 of this chapter).*

Allantoin

Aloe vera gel

Calamine

Ethyl alcohol

Eugenol

Menthol

Oil of eucalyptus

Oil of peppermint

Propylene glycol

Sodium alkylarylpolyether sulfonate

Titanium dioxide

Triclocarban

Triclosan

Any other ingredient labeled with claims or directions for use as a blemish remedy

(33) *Bunion remedies.* Any ingredient(s) labeled with claims or directions for use to treat and/or prevent bunions.

(34) *Drawing salves (excluding products labeled for the treatment of boils in § 310.531 of this chapter)—includes products labeled for the drawing or removing of splinters, slivers, or similar items.*

Ergot fluid extract

Juniper tar (oil of cade)

Magnesium sulfate

Pine tar

Rosin

Rosin cerate

Sulfur

(35) *Foot balms, baths, and other topical dosage forms for any ''foot'' claims (including relieving foot muscle strains and soreness from working out), excluding topical antifungal active ingredients in paragraph (a)(22) of this section and § 333.210 of this chapter and excluding external analgesic active ingredients in paragraphs (a)(10)(i) and (a)(10)(ii) of this section and §§ 348.10 and 348.12 of the external analgesic drug products tentative final monograph published on February 8, 1983 (48 FR 5852).*

Amyl salicylate

Benzalkonium chloride

Cajeput oil

Di-isobutyl phenoxy ethoxy ethyldimethyl benzyl ammonium chloride

Essential oils

Eucalyptus oil

Formaldehyde solution

Glyceryl monostearate

8-Hydroxyquinoline

Iodized botanical oil

Iron sulfate

Isopropyl alcohol

Lanolin

Lithium chloride

Magnesium sulfate

O-benzyl-p-chlorophenol

Oil of thyme

Peppermint oil

Pine needle oil

Potassium iodide

Propylene glycol

Sodium bicarbonate

Sodium chloride

Sodium hypochloride

Sodium lauryl sulfate

Sodium phosphate, tribasic

Sodium sesquicarbonate

Sodium sulfate

Talc

Tragacanth mucilage

Water soluble chlorophyllins

Witch hazel

Zinc oxide

Any other ingredient labeled with claims or directions for use as a foot balm, bath, or other topical dosage form *for any ''foot'' claims (including relieving foot muscle strains and soreness from working out*)

(36) *Impotency cures.*

Yohimbine

Yohimbine hydrochloride

Any other ingredient labeled with claims or directions for use as an impotency cure

(37) *Medicated bath preparations.*

Acetylated lanolin

Alkyl aryl polyether alcohol

Colloidal sulfur

Cottonseed oil

Di-isopropyl sebacate

Drometrizole

Iron sulfate

Isopropyl myristate

Isopropyl palmitate

Isostearic acid

Lanolin alcohols extract

Lanolin oil

Liquid petrolatum

Lithium chloride

Magnesium sulfate

Mineral oil

Natural and essential oils

Nonoxynol-5

Octoxynol-3

Oxybenzone

PEG–4 dilaurate

PEG–8 dioleate

PEG–40 sorbitan peroleate

PEG–200 dilaurate

Peruvian balsam

PPG–15

Pine needle oil

Potassium iodide

Stearyl ether oleth-2

Sodium bicarbonate

Sodium carbonate

Sodium chloride

Sodium hyposulfate

Sodium lauryl sulfate

Sodium sesquicarbonate

Sodium sulfate

Tar distillate

Vitamin E

Water soluble chlorophyllins

Any other ingredient labeled with claims or directions for use as a medicated bath preparation

(38) *Nonantimicrobial skin wound cleansers* (previously listed as ''detergents'' in call-for-data notices).

Tincture of Green Soap

Phenolate sodium

Poloxamer 188

Any other ingredient labeled with claims or directions for use as a nonantimicrobial skin wound cleanser

(39) *Prickly heat products.*

Aluminum hydroxide gel

Zinc carbonate

Zinc oxide

Any other ingredient labeled with claims or directions for use for prickly heat

(40) *Urethral topical products for males.* Any product labeled with claims or directions for use to treat and/or prevent male urethral problems.

(41) *Urinary acidifiers.*

Ammonium chloride

Ascorbic acid

Any other ingredient labeled with claims or directions for use as an urinary acidifier

(42) *Urinary alkalinizers.*

Sodium bicarbonate

Any other ingredient labeled with claims or directions for use as an urinary alkalinizer

(43) Wet *dressings (excluding astringent active ingredients in paragraph (a)(18)(ii) of this section and skin protectant and astringent active ingredients in §§ 347.10 and 347.12 of this chapter*).

Aloe vera

Calcium polysulfide

Calcium thiosulfate

Oxyquinoline sulfate

Sodium propionate

Any other ingredient labeled with claims or directions for use as a wet dressing

(44) *Wound wash saline*.

Sodium chloride solution

Sterile sodium chloride solution

Any other ingredient labeled with claims or directions for use as wound wash saline

(45) *Urea*. Any product containing urea for any labeled claims.

* * * * *

(d) Any OTC drug product that is not in compliance with this section is subject to regulatory action if initially introduced or initially delivered for introduction into interstate commerce after the dates specified in paragraphs (d)(1) through (d)(52) of this section.

* * * * *

(2) February 10, 1992, for products subject to paragraph (a)(20)(i) of this section.

* * * * *

(52) [Date 180 days after date of publication of a final rule in the **Federal Register**], for products subject to paragraphs (a)(10)(viii), (a)(18)(vii), (a)(18)(viii), (a)(20)(iii), (a)(27)(iii), and (a)(30) through (a)(45) of this section.

Dated: June 9, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–13826 Filed 6–18–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Notice No. 84; Re: Notice No. 68]

RIN 1513–AB26

Proposed Establishment of the Tulocay Viticultural Area (2006R–009P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau announces the withdrawal of its proposal to establish the Tulocay viticultural area in southern Napa County, California. We take this action because of questions regarding the actual name of the proposed viticultural area and to avoid the use of potentially misleading statements on wine labels.

DATES: The withdrawal of the proposal to establish the Tulocay viticultural area is effective on June 19, 2008.

FOR FURTHER INFORMATION CONTACT: N. A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., 158, Petaluma, CA 94952; telephone 415–271–1254.

SUPPLEMENTARY INFORMATION:

Background

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the regulations promulgated under the FAA Act.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for petitions for the establishment of viticultural areas and contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the name of the viticultural area is locally and/or nationally known as referring to the area specified in the application;
- Historical or current evidence that the boundaries of the viticultural area are as specified in the application;
- Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;
- The specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (USGS) maps of the largest applicable scale; and
- A copy of the appropriate USGS map(s) with boundaries prominently marked.

Publication of Notice No. 68

On November 8, 2006, TTB published in the **Federal Register** (71 FR 65432), as Notice No. 68, a notice of proposed rulemaking to establish the ''Tulocay'' American viticultural area in southern Napa County, California. We undertook that action in response to a petition filed by Aaron Pott, a winemaker, and Marshall Newman of Newman Communications, on behalf of vintners and grape growers in the Tulocay region of Napa County, California. As explained in Notice No.68, the proposed Tulocay viticultural area lies entirely within Napa County and also entirely within the existing Napa Valley viticultural area (27 CFR 9.23), which in turn is entirely within the existing, multi-county North Coast viticultural area (27 CFR 9.30). Notice No. 68 invited comments from the public on the proposal, and the comment period closed on January 8, 2007.

Comments Received in Response to Notice No. 68

TTB received 20 comments in response to Notice No. 68 during the comment period. Of those, 8 comments supported the petition and 12 comments requested that the proposed Tulocay

viticultural area's name be changed to ''Coombsville,'' or ''Coombsville District,'' while maintaining the proposed boundary line. After the close of the comment period, TTB received one comment supporting the petition and two comments opposing the establishment of the proposed Tulocay viticultural area.

Comments Fully in Support

The supportive commenters stated that the Tulocay region is a unique grape-growing region with different seasonal changes, climatic conditions, topography, soils, and growing season, as compared to the rest of the Napa Valley. Also, one supporting commenter explained that the Tulocay Land Grant is an important part of Napa Valley history. The Napa Valley Vintners Association, in a letter submitted after the close of the comment period, supported the establishment of the Tulocay viticultural area, explaining that its Appellation Committee reviewed the Tulocay viticultural area petition and found it to be comprehensive and deserving of endorsement.

Name Change Comments

Tom Farella, owner of a vineyard and winery located within the proposed Tulocay viticultural area, qualified his support for the proposed viticultural area's establishment by disagreeing with the ''Tulocay'' name and stating a preference for the name ''Coombsville.'' He stated that Coombsville is the common neighborhood description used for real estate, in references to the area by the main local newspaper (the Napa Register), and by the greater local public. Mr. Farella also noted that a recent article in Wine and Spirits magazine referred to the area as Coombsville, and that the Coombsville name ''has been cited in wine books and publications for years.'' He added that the petitioners chose to ignore use of the Coombsville name because they did not like its sound and that they would not discuss the matter when he brought the issue up during informal meetings. Finally, if TTB were to proceed with the name ''Tulocay,'' he strongly endorsed the addition of ''District'' to the name in order to avoid confusion with the long-established ''Tulocay'' brand name used by Tulocay Winery. In this regard, he stated, ''Our vineyard and winery are located at the very heart of the proposed viticultural area and I would be disinclined to add simply ''Tulocay'' to our label. I find that it would be very confusing for the consumer to see our brand and Bill Cadman's Tulocay brand on the same label.''

A comment from Michael L. Turner, also expressed a preference for the name ''Coombsville'' or ''Coombsville District'' and included historical information about Nathan Coombs, an early American settler of Napa County regarded as the founder of the city of Napa. Mr. Coombs is memorialized by Coombs Street, located in downtown Napa to the west of the proposed viticultural area boundary line, and by Coombsville Road, which runs east to west through the southern part of the proposed viticultural area. Other commenters supporting the use of the ''Coombsville'' name echoed the comments of Mr. Farella and Mr. Turner regarding the use of the Coombsville name in southern Napa County and Nathan Coombs' role in the settlement of Napa County.

Comments From Tulocay Winery

After the close of the Notice No. 68 public comment period, TTB received a letter from Bill Cadman, the owner of Tulocay Winery, which is located on Coombsville Road in Napa. Noting that he has used the Tulocay brand name since his first vintage in 1975, Mr. Cadman strenuously objected to the establishment of the proposed Tulocay viticultural area since this would cause ''inestimable economic damage'' to a label and wine reputation that he has worked over 30 years to create. Mr. Cadman stated that he grows no grapes, but buys them from independent growers in Napa, Sonoma, Amador, and El Dorado Counties, California. Stating that his Tulocay brand Amador County Zinfandel wine vintages date from 1975 to the present, Mr. Cadman argued that if the proposed Tulocay viticultural area were approved, California State law would then prohibit production of his Tulocay brand name wines from grapes grown outside of Napa County. Mr. Cadman further stated that the State of California could seize and dispose of his Tulocay wines made from non-Napa County grapes and produced after January 1, 2001.

TTB was also contacted by Kristen Techel, attorney for Mr. Cadman, who submitted a memorandum that included additional information in support of Mr. Cadman's assertions. Ms. Techel explained that in August 2004, the California Supreme Court issued an opinion in *Bronco Wine Company* v. *Jolly*, 33 Cal. 4th 943 (2004), cert. *denied*, 544 U.S. 922 (2005), supporting section 25241 of the California Business & Professions Code (CB&PC), which allows the use of specified viticulturally significant names (that is, ''Napa,'' or any viticultural area appellation of origin established under part 9 of the TTB regulations and located entirely within Napa County, or any name similar to the foregoing that is likely to cause confusion as to the origin of the wine) only if at least 75 percent of the wine was derived from grapes grown in Napa County.

Ms. Techel further stated that the *Bronco* decision made it clear that the Federal grandfather clause (27 CFR 4.39(i)(2)) regarding the use of viticultural area names cannot be used to save Mr. Cadman's Tulocay brand labels which would be in conflict with section 25241 of the CB&PC (that is, Tulocay brand labels that are used on wines, more than 25 percent of which were created from grapes grown outside of Napa County). She asserted that if the Tulocay viticultural area were established by TTB, Tulocay Winery might have to destroy existing wines and stop production of its most popular wines. Ms. Techel then urged TTB to use extreme caution in granting viticultural area petitions within Napa because of the dire effects of this State law.

Ms. Techel also asserted that the Tulocay petition must be rejected because the area described in the petition is known as Coombsville. She stated that local residents most often refer to the area as Coombsville, that local real estate listings generally refer to Coombsville, and that the Napa County General Plan refers to the region within the proposed viticultural area as Coombsville. She also cited articles from the July 2001 issue of Wine Spectator (''Putting Coombsville on the Map for Napa Cabernet'') and from the December 2006 issue of Wine & Spirits Magazine (''The Future of Napa Cabernet'') as evidence that the area is known as Coombsville. She concluded that Coombsville is what the wine industry already calls this area.

Analysis of Comments

Name Dispute

The proposed Tulocay viticultural area petition and supporting documentation focused on the Tulocay name as used for a historical land grant, an in-use cemetery, and several other Napa County sites. The Tulocay viticultural area petitioners included an 1859 plat map that labels the area as ''Tulocay Rancho,'' and an 1876 Napa County map which labeled the area as ''Rancho Tulucay.'' Further, a publication, ''The Past is Father of the Present, a Spanish California History and Family Legends 1737–1973,'' by Viviene Juarez Rose, included the article ''Days of Old on Rancho Tulucay,'' which features personal accounts of

several members of the Juarez family. However, evidence of the current use of ''Tulocay'' to refer to the proposed area is rather limited. The USGS 1980 photorevised Napa and the 1968 photorevised Mt. George quadrangle maps included with the petition show Tulucay Creek flowing through the proposed viticultural area, and two USGS topographic maps label the general region as ''Tulocay.'' However, TTB conducted research through the on-line Geographic Names Information System (GNIS) maintained by the USGS, and for ''Tulocay'' there were only three references-the cemetery, a creek, and Tulocay Winery. Thus, other than the USGS maps with a reference to Tulocay, there is little evidence that the area in question is currently locally and/or nationally known as ''Tulocay.''

The comments in support of ''Coombsville'' and ''Coombsville District'' include historical references to Nathan Coombs, as well as fairly recent references to the region as ''Coombsville.'' These current references include references in Napa County documents as well as specific references to the area known as ''Coombsville'' appearing in wine related publications. However, TTB's own review of maps of the general area (the Napa Valley Communities map, published in March of 1999 by the American Automobile Association, and the USGS 1980 photorevised Napa and 1968 photorevised Mt. George quadrangle maps) revealed the name ''Coombsville'' only in connection with ''Coombsville Road,'' which runs east-west in the southern portion of the proposed Tulocay viticultural area. TTB's research through GNIS found no hits for ''Coombsville'' or ''Coombsville District'' anywhere in California.

In sum, the comments received on changing the proposed Tulocay viticultural area's name to ''Coombsville'' or ''Coombsville District'' had some current evidence of the use of the name ''Coombsville'' but lacked sufficient substantiating evidence in the form of map references or GNIS hits to support the use of either of those names for the proposed viticultural area. Further, though the commenters suggest ''Coombsville'' or ''Coombsville District'' would be their preferred name for the proposed viticultural area, it should be noted that TTB has not received a petition proposing the establishment of a viticultural area named ''Coombsville'' or ''Coombsville District''; the petition received by TTB proposed the name ''Tulocay'' as the name of the viticultural area.

In regard to Mr. Farella's comment that the name ''Tulocay District'' should be considered, neither the current Tulocay viticultural area petition nor Mr. Farella's letter contained any documentation or other substantiating evidence in favor of the name ''Tulocay District.'' Further TTB found no hits for ''Tulocay District'' through GNIS.

After careful consideration of all the name evidence, TTB believes that the limited documentation evidencing that the area in question is currently known as Tulocay and the significant number of commenters in favor of the names ''Coombsville'' and ''Coombsville District,'' along with the documentation they included with their comments, cast doubt on the advisability of recognizing ''Tulocay'' standing alone as the name of the petitioned-for viticultural area. In particular, the petition name evidence and the commenters' evidence in support of Coombsville and Coombsville District, taken together, demonstrate a lack of unity among the region's industry members as to what the name of the petitioned-for viticultural area is locally and/or nationally known as, thus drawing into question whether there is, in fact, a viticultural area known as ''Tulocay'' that TTB should recognize in its regulations.

Effect on Tulocay Winery

Under the TTB regulations, for a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name or other term identified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with the viticultural area name or other viticulturally significant term and that name or term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label.

The TTB regulations in 27 CFR 4.39(i)(2) contain a ''grandfather'' clause exception to the 85 percent rule described above. Under this exception, for brand names used in existing certificates of label approval issued prior to July 7, 1986, the labels may continue to be used even though the brand name includes a viticultural area name or other term of viticultural significance and the wine does not meet the 85 percent rule, provided that:

- The wine is labeled with an appellation of origin as specified in § 4.39(i)(2)(ii); or
- The wine is labeled with some other statement that TTB finds ''sufficient to dispel the impression that the geographic area suggested by the brand name is indicative of the origin of the wine'' (§ 4.39(i)(2)(iii)).

It is clear that Mr. Cadman's Tulocay wine labels would be ''grandfathered'' under the TTB regulations if the proposed Tulocay viticultural area were established, and, accordingly, he could continue to use those grandfathered ''Tulocay Winery'' labels for TTB purposes provided that the labels meet the requirements of § 4.39(i)(2)(ii) or (iii).

However, based on the terms of section 25241 of the CB&PC and the California State Supreme Court's ruling in the *Bronco* case that the provisions of the California statute are not preempted by the § 4.39(i) grandfather provision, it is clear that the TTB regulatory provisions would afford no effective label use protection to Tulocay Winery once the proposed Tulocay viticultural area were established. This is because under section 25241(c)(2) of the CB&PC, ''Tulocay'' would be a name of viticultural significance, thus allowing Mr. Cadman to continue to use the name of his winery on his labels only if his wine qualifies for use of the Napa County appellation of origin under Federal regulations (that is, at least 75 percent of the wine must be derived from grapes grown within Napa County). Under section 25241 of the CB&PC, operations in contravention of that provision could result in suspension or revocation of a license and seizure and disposal of the wine by the State of California.

TTB Finding

After careful consideration TTB has determined that it would not be appropriate to proceed with the establishment of the proposed Tulocay American viticultural area for the following reasons:

- The comments submitted, and the evidence and other information available, raise a substantial question as to whether there is a sufficient basis to conclude that the geographical area described in the petition is locally or nationally known as ''Tulocay.'' While evidence suggesting the name ''Coombsville'' is a factor in this regard, the evidence currently available would not, standing alone, support the establishment of a viticultural area under the names ''Coombsville'' or ''Coombsville District.'' Moreover, the evidence does not support the name

''Tulocay District,'' and currently there is no petition requesting the establishment of a viticultural area in the subject area using a variation of Tulocay, such as Tulocay District, or any other name, such as Coombsville or Coombsville District. It is noted that these findings do not preclude future consideration of a petition, supported by sufficient name evidence, proposing the establishment of a viticultural area in the subject area using a name other than ''Tulocay.''

• Consumer confusion could ensue regarding the identity and quality of wines bearing the term ''Tulocay'' if that term, which for more than 30 years has been identified with wines produced by Tulocay Winery from grapes grown in multiple California counties, were suddenly to disappear as a brand name of Tulocay Winery products and be used on labels for wines produced by other wineries primarily from grapes grown within a small portion of Napa County. Such consumer confusion resulting from the approval of the proposed Tulocay AVA is contrary to the purpose of the FAA Act.

For the reasons stated above, the proposal to establish the Tulocay viticultural area is withdrawn.

Signed: March 17, 2008.

John J. Manfreda,

Administrator.

Approved: June 13, 2008.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. E8–13858 Filed 6–18–08; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF JUSTICE

28 CFR Part 20

[Docket No. FBI 114]

RIN 1110–AA26

FBI Criminal Justice Information Services Division User Fees

AGENCY: Federal Bureau of Investigation (FBI), Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FBI is authorized to establish and collect fees for providing fingerprint-based and name-based Criminal History Record Information (CHRI) checks and other identification services submitted by authorized users for noncriminal justice purposes including employment and licensing. The FBI may set such fees at a level to include an amount to establish a fund to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs. The proposed rule explains the methodology used to calculate the revised fees, provides the proposed fee schedule, and advises that future fee adjustments will be made by notice published in the **Federal Register**. After public comment, a final rule and notice of the final fee schedule will be published concurrently in the **Federal Register**.

DATES: Written comments must be received on or before August 18, 2008.

ADDRESSES: You may submit comments, identified by Docket No. FBI 114, by either of the following methods:

• *Federal Regulations Web site:* You may review this regulation on *http://www.Regulations.gov* and use the comment form for this regulation to submit your comments. You must include Docket No. FBI 114 in the subject box of your message.

• *Mail:* You may use the U.S. Postal Service or other commercial delivery services to submit written comments to the FBI Criminal Justice Information Services Division, 1000 Custer Hollow Road, Module E–3, Clarksburg, West Virginia 26306, Attention: Christopher L. Enourato. To ensure proper handling, please reference Docket No. FBI 114 in your comment. When submitting written comments, please allow for delivery time plus at least two days for internal mail security scanning and delivery.

FOR FURTHER INFORMATION CONTACT: Christopher L. Enourato, FBI, Criminal Justice Information Services Division, 1000 Custer Hollow Road, Module E–3, Clarksburg, West Virginia 26306, telephone number 304–625–2910.

SUPPLEMENTARY INFORMATION:

I. Posting of Public Comments
II. Background
III. Fee Calculation
IV. Revised Fee Schedule
V. Administrative
VI. Regulatory Certifications

I. Posting of Public Comments

Please note that all comments on the proposed rule are considered part of the public record and made available for public inspection online at *http://www.Regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on *http://www.Regulations.gov.*

Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the ''For Additional Information'' paragraph.

II. Background

For the purposes of this discussion, the FBI user fees are classified according to the FBI division that provides the check in question: the Records Management Division (RMD) or the Criminal Justice Information Services (CJIS) Division. The proposed rule implements the FBI's statutory authority to establish and collect fees for noncriminal justice fingerprint-based and name-based CHRI checks and other identification services performed by the CJIS Division. Fees for name checks performed by RMD will be the subject of a separate rulemaking. Further, under 28 CFR 16.33, the FBI is authorized to collect a fee for the production of an FBI identification record in response to a written request by the subject of the record; adjustments to that fee will be set out in a third rulemaking.

The proposed rule explains the methodology used to calculate the FBI's revised fees, provides a proposed fee schedule, and advises that future fee adjustments will be made by notice published in the **Federal Register**. After public comment, a final rule and notice of the final fee schedule will be published concurrently in the **Federal Register**. The rule will be published at 28 CFR Part 20.

Legal Authority To Collect Fees

The FBI has collected user fees for fingerprint-based CHRI checks since 1982, when the authority to establish and collect fees to process fingerprint-based CHRI checks for noncriminal justice purposes, such as employment and licensing, was set out in Public Law (Pub. L.) 97–257. This statutory authority was renewed annually by subsequent appropriations legislation. Under Public Law 101–162, the FBI was also authorized to establish and collect fees for name-based checks and to set the fees at a level to include an amount to defray expenses for the automation of fingerprint identification and associated costs. Congress, in Public Law 101–515, subsequently authorized the FBI to establish and collect these fees on a continuing basis. This authority was further expanded by Public Law 104–99 with insertion of the term ''criminal justice information services'' so the FBI was authorized to use the collected fees to ''defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.'' The same statutory language concerning the FBI's authority to establish and collect fees for conducting CHRI checks was included in the Private Security Officer Employment Authorization Act of 2004, Section 6402 of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458. As explained later, the National Child Protection Act, as amended by the Volunteers for Children Act (VCA), Title 42, United States Code (U.S.C.), Section 5119a, provides user fee authority for fingerprint-based CHRI checks of volunteers who work in qualified entities with children, the elderly, or disabled persons.

No Fees for Criminal Justice CHRI Checks

Under Public Law 101–515 and other statutes, the FBI is authorized to charge a fee for noncriminal justice CHRI checks for such purposes as employment and licensing. The FBI does not charge a fee for identification services performed for criminal justice purposes, including checks of applicants for criminal justice employment, which are financially supported by federal appropriations.

Proposed Changes to the Fee Schedule

The proposed fee schedule reflects changes in both the FBI's business processes and the volume of noncriminal justice submissions. In 1982, the average response time was 27 work days to process the 60,000 noncriminal justice checks submitted each month. In 1994 when the user fees were last adjusted, the FBI's response time to process 333,000 noncriminal justice fingerprint-based CHRI checks in the same time period was 16 work days. In fiscal year (FY) 2006 with a more efficient automated identification system in place, the average response time for 885,000 noncriminal justice fingerprint checks submitted electronically each month was merely 3 hours and 30 minutes.

When user fees were first implemented in 1982, the authorized user community received actual notice of fee changes through CJIS Information Letters (formerly called Contributor Letters). The fees were adjusted from time-to-time to reflect rising personnel costs and the increasing volume of noncriminal justice submissions, and the revised fee information was provided to the authorized user community through CJIS Information Letters.

Consistent with that past practice, by CJIS Information Letter dated June 1, 2007, the fee schedule in the proposed rule was established on an interim basis effective October 1, 2007. Although the proposed rule will establish the user fees by notice and comment rulemaking, it was necessary to advise the authorized user community of the revised fees prior to the start of FY 2008. Setting the revised fees on an interim basis will allow contributors to make necessary changes to fee processing and accounting procedures before the start of the federal fiscal year, thereby avoiding costly and confusing midyear changes.

The FBI will continue to analyze its costs and will review related fee charges periodically, as recommended by Office of Management and Budget Circular No. A–25, User Charges (OMB Circular A–25). The proposed rule advises that future adjustments to the FBI's fees will be announced by notice in the **Federal Register**.

III. Fee Calculation

Standards and Guidelines Used To Calculate the Fees

Public Law 101–515 links the user fees charged for processing fingerprint identification records and name checks to the cost of providing these services. This authority also permits the FBI to establish user fees at a level to include an amount ''to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.''

In the absence of express statutory authority, federal agencies are authorized to establish fees by the Independent Offices Appropriation Act of 1952, 31 U.S.C. 9701, which is implemented by specific guidelines in OMB Circular A–25. Since the FBI has specific statutory authority to establish and collect fees under Public Law 101–515, the FBI is not required to follow strictly the mandates of OMB Circular A–25. In establishing the fees set out in this proposed rule, the FBI referred to OMB Circular A–25 for guidance in calculating fees based on costs. For example, in calculating the fees, OMB Circular A–25's definition of full cost ''as all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service'' was used to include direct and indirect personnel costs, physical overhead, and other indirect costs such as material costs, utilities, travel, and equipment.

Congress in the VCA, 42 U.S.C. 5119a, limited the fee that can be charged to a volunteer to $18, or the actual cost of providing the service, whichever is less. The statutory term ''actual cost'' does not appear in OMB Circular A–25, which uses the term full cost, defined as all direct and indirect costs of providing a service. Thus, the FBI defined the actual cost as the full cost of providing this service, when calculating the fee for checks of volunteers under the VCA.

Methodology Used To Calculate the User Fees

The FBI hired a contractor, BearingPoint, Inc., 1676 International Drive, McLean, Virginia 22102 (BearingPoint), to conduct an independent analysis of pertinent costs and to recommend a revised fee schedule for the fingerprint-based and name-based CHRI checks conducted by the CJIS Division. Referencing OMB Circular A–25; the Statement of Federal Financial Accounting Standards (SFFAS–4): Managerial Cost Accounting Concepts and Standards for the Federal Government; and other relevant financial management directives, BearingPoint developed a cost accounting methodology and related cost models based upon the concepts and principles of activity-based costing (ABC).

ABC is a business management process that provides information about the relationships between inputs (costs) and outputs (products or services) by quantifying how work is performed (activities). The ABC model used to calculate the user fees was developed using commercially available ABC software and followed generally accepted cost accounting procedures for cost assignment and unit cost calculation. Organizational resources were assigned to activities, and then the

activities were assigned to services based upon reported patterns of consumption. BearingPoint identified the total resources associated with the fingerprint-based and name-based CHRI check services and assigned these costs to the services using relevant cost drivers. The cost drivers were selected primarily for their strong cause-effect linkages between the resources and the activities and services that consumed them. BearingPoint worked extensively with FBI staff, including programmatic subject matter experts and statistical experts, to gather the information necessary to devise the cost accounting methodology and to construct a representative ABC model. BearingPoint developed its cost accounting methodology in six steps for the nonautomation portion of the fee.

1. Operational labor costs were reviewed and assigned to activities and then to services.

2. Support labor costs were reviewed and assigned to activities and then to services.

3. Nonlabor costs, including unfunded personnel and judgment fund costs, were reviewed and assigned to activities and then to services.

4. Cost estimates were made for FY 2008, when the revised user fees are expected to be implemented.

5. Transaction volumes and trends were analyzed to predict appropriate transaction volumes for FY 2008.

6. Finally, using the projected FY 2008 costs and the projected FY 2008 transaction volumes, the projected unit costs for each service were calculated. The recommended user fees were based on these projected unit costs.

As explained above, under Public Law 101–515, the FBI is also authorized to charge an additional amount for the automation of fingerprint identification and criminal justice information services and associated costs. A similar process was used to develop this portion of the fee. It was determined that the most appropriate basis for the calculation of this portion of the fee was the capital investment and anticipated depreciation costs for automated fingerprint identification and other criminal justice information service capabilities and enhancements to certain automated systems. The costs for these automation efforts were obtained from the FBI's asset management and financial management systems and records, and program planning documentation. By employing this methodology, users paying the fee will pay for services based on the cost of the automation which is already in place at the time their request is processed. While the funds collected will be used to develop future capabilities, the cost basis of the fee will be the automation in place. The projected FY 2008 volumes were then used to calculate the unit costs for this portion of the fee.

Once the unit costs were calculated, BearingPoint generated the revised fee schedule. The FBI then independently reviewed the BearingPoint recommendations, compared them to current fee calculations and plans for future services, and determined that the revised schedules were both objectively reasonable and in consonance with the underlying legal authorities.

Overview of the Costs Included in the Fee Calculation

The fee calculation was made by gathering the labor and nonlabor costs of those divisions of the FBI that directly or indirectly support the provision of the fingerprint-based and name-based CHRI check services, and then using various drivers to assign those costs to the identified activities. The activities were then assigned to the specific fingerprint-based and name-based CHRI check services or to a general category for all other costs. The ABC model examined in detail only those costs which were related to the fingerprint-based and name-based CHRI check services. These services included both the criminal justice and law enforcement and the noncriminal justice identification services performed by the CJIS Division of the FBI. The discussion below is limited to those costs in the ABC model which were assigned to the fingerprint-based and name-based CHRI check services that are supported by the user fees. In other words, even though the ABC model calculated unit costs for various criminal justice fingerprint-based CHRI check services, these costs will not be discussed in this regulation since they are funded with appropriations and not with user fees.

The costs for providing the fee-supported fingerprint-based and name-based CHRI check services include the personnel costs for both direct and indirect support, as well as nonlabor costs such as travel, training, rent, equipment, utilities, printing, contract support, and supplies. In addition, depreciation for existing nonautomation assets was included per OMB Circular A–25 guidance. Finally, portions of the FBI's costs for workers compensation, unemployment compensation, and the judgment fund, used to pay judgments against the United States where appropriations have not otherwise been provided, were included. These costs were derived from the FBI's financial systems and audited financial statements. The FY 2008 predicted costs were obtained by recalculating the depreciation and adding an inflation factor for labor and other nonlabor expenses. The OMB pay raise and inflation factors provided in OMB Circular A–11, Preparation, Submission, and Execution of an Agency Budget, were used. The costs associated with providing the services do not include any of the automation costs which instead were captured in the capital investment and depreciation costs for the automation portion of the fee described below.

The automation costs are divided into those which support fingerprint identification services currently in operation and those which support other criminal justice information services. Both types of automation costs are authorized by Public Law 101–515. The FBI chose to separate these costs to facilitate calculation of the cost of providing fingerprint-based CHRI checks for volunteers, since the VCA limits the fee to the actual cost or $18.00, whichever is less. The FBI is interpreting the actual cost of providing the service to include only the costs for the automation of fingerprint services currently in operation; the actual cost does not include the costs for the automation of other criminal justice information services.

The costs for the automation of the fingerprint identification services include depreciation costs for the fingerprint identification infrastructure and the costs for developing a disaster recovery capability which would allow the FBI's essential fingerprint identification services to continue in all circumstances as required by OMB Circular A–130, Management of Federal Information Resources (OMB Circular A–130).

The costs for the automation of other criminal justice information services are based on the depreciation of assets already in place and the costs of enhancements which have passed through the approval gates for the planning stages of system development under the FBI's life cycle management directive. These enhancements include the Next Generation Identification program, which will increase the speed, capacity, and functionality of the FBI's fingerprint identification process, and the Biometric Interoperability Program which will provide two-way access to information in other major fingerprint databases such as the Department of Homeland Security's database of nonimmigrant visitors to the United States. The costs also include the automation of certain aspects of the National Crime Information Center (NCIC), the Law Enforcement National

Data Exchange (N–DEx) program, and the Uniform Crime Reporting (UCR) program.

There is one additional component of cost which was considered when determining the fees. Federal agencies, certain state agencies, and approved nongovernmental entities that submit fingerprint-based CHRI checks function as de facto centralized billing service providers (CBSPs) by collecting the appropriate fee from individuals or subordinate agencies and submitting a consolidated payment. It is more cost-effective for the FBI to bill a CBSP than to process individual direct payments for single fingerprint-based CHRI check submissions. The FBI employs this centralized billing methodology to collect payment for more than 9.8 million fingerprint-based CHRI checks each year. Under the fee schedule proposed in this rule, the FBI will continue the practice of allowing approved CBSPs to retain a portion (currently $2.00) of the fee for fingerprint-based CHRI checks for performing this centralized billing service. In order to allow the CBSPs to retain this portion of the fee, it is necessary to include this cost when determining the full costs which the fee must cover. At this time, this cost is calculated by multiplying the amount the CBSPs are allowed to retain by the volume of billed transactions. The centralized billing process will be subject to further analysis and, consequently, may be revised in the future.

Proposed Changes to the Fee Schedule

Fingerprint-Based CHRI Checks

The FBI utilizes categories or fee classes to set the charges for fingerprint-based CHRI checks.

Current fee classes are determined by the:

- Type of submission—manual or electronic.
- Source of funding—federally appropriated or other funding.
- Volunteer status under the VCA.

Proposed fee classes will be determined by the:

- Type of transaction—manual, electronic, or electronic submission with manual response.
- Volunteer status under the VCA.

Note that under the proposed rule, there is no distinction in fees based on the source of funding.

Name-Based CHRI Checks

As noted earlier, the RMD and the CJIS Division of the FBI both provide name-based checks of FBI maintained records. The CJIS Division name-based CHRI checks provide CHRI from records of individuals fingerprinted as a result of arrest or incarceration. The FBI maintained records have been submitted voluntarily by state, local, tribal and federal law enforcement agencies. The noncriminal justice name-based checks are searched against the descriptive data in the FBI maintained records, using the applicant's name and descriptive data, such as his date of birth. Since the CHRI response, if any, to the name-based CHRI request is not obtained through positive identification, such as fingerprints, the FBI does not confirm that the CHRI is related to the applicant. The name-based CHRI checks are available only to authorized federal agencies for purposes specifically authorized by statute, e.g., pursuant to the Security Clearance Information Act, 5 U.S.C. 9101. The FBI had previously established fee classes for name-based CHRI checks which differentiated between manual and electronic submissions. The proposed rule continues these same classes.

New Services

If the FBI offers a new service or otherwise requires a new fee class in the future, the charge for this new fee class will be based upon the closest existing fee class until such time as a new fee class can be established. Authorized users will be advised of the new service or new fee class by CJIS Information Letter or other CJIS communication. The FBI will calculate a fee for the new fee class using the methodology discussed in this NPRM, and will publish a revised fee schedule as a notice in the **Federal Register**.

Discussion of Proposed Changes to Fees and Fee Classes

Proposed changes to the fees and fee classes, due to automation costs, types of transaction, and the submission of volunteers under the VCA are discussed in detail below.

Automation Cost

As noted above, OMB Circular A–25 defines ''full costs'' to include all direct and indirect costs, including the cost of improving or automating processes used to provide the services in question. Similarly, Public Law 101–515 authorizes the FBI to establish fees for fingerprint-based and name-based CHRI checks at a level sufficient to defray the expenses of automating fingerprint identification and criminal justice information services and associated costs. Even so, the FBI did not previously charge federal agencies the full costs contemplated by OMB Circular A–25 or Public Law 101–515. The FBI proposes to establish fees for all users, at a level that will permit all costs, including automation expenses, to be fully defrayed, as authorized by Public Law 101–515. The FBI has determined that actual costs for volunteers submitting under the VCA will be defined to include the cost of the automation of the fingerprint services, but not to include the cost of the automation of other criminal justice information services.

Type of Transaction

Under the proposed rule, the type of transaction will be a determining factor in calculating the fee charged for all fingerprint-based and name-based CHRI checks, except for volunteer checks submitted under the VCA which are calculated separately.

1. Fingerprint-Based Checks

Under current business practice, requests for fingerprint-based CHRI checks may be submitted manually, by sending a hard-copy fingerprint card, or electronically, by sending fingerprint images through the Integrated Automated Fingerprint Identification System (IAFIS). Responses to manual submissions are provided in hard-copy format and responses to electronic submissions are provided in an electronic format. Some agencies have been authorized by the CJIS Division to request hard-copy responses to electronic submissions.

Processing electronic submissions is more efficient and cost-effective than processing manual submissions which require entry of the descriptive data and scanning of the fingerprint images to convert the hard-copy card into an electronic format for processing by the IAFIS. After processing, the IAFIS response is then converted to a hard-copy format for delivery by mail to the requester. The independent analysis by BearingPoint determined that the cost of processing a manually submitted fingerprint-based CHRI check is significantly higher than the cost of processing an electronically submitted fingerprint-based CHRI check. Under current business practice, agencies paying with federally appropriated funds are charged higher fees for processing manual checks than for electronic fingerprint-based CHRI checks, while agencies paying with other funds are charged the same fee for both types of transactions. Under the proposed rule, the FBI will charge all agencies higher fees for manual than for electronic checks.

Under current business practice, an agency submitting fingerprints electronically but requesting a manual

response is charged the fee for a manual submission and response. BearingPoint also calculated the cost of processing a transaction with an electronic submission of fingerprints and a manual response, and that calculation was used to establish a separate fee class for processing electronic submission/manual response transactions.

2. *Name-Based CHRI Checks*

Under current business practice, if specifically authorized by statute, requests for name-based CHRI checks may be submitted manually or electronically by federal agencies. The proposed rule continues these same fee classes.

Volunteer Submissions Under the VCA

Fingerprint-based CHRI checks for volunteers submitted under the VCA are in a separate fee class since the pertinent statute provides that the fee charged by the FBI in such cases may not exceed $18.00 or the actual cost of the background check, whichever is less. The FBI is interpreting actual cost to be the full cost as defined by OMB Circular A–25. The FBI has determined that full cost for volunteers submitting under the VCA will include the direct and indirect personnel and nonpersonnel costs, the cost of the automation of the fingerprint services, and the cost of billing services, where applicable. The full cost for volunteers submitting under the VCA will not include the cost of the automation of other criminal justice information services. Due to the very small volume of volunteer transactions, it is more cost-effective to charge all volunteer submissions under the VCA the same fee regardless of submission type.

Detail of the Costs Used To Calculate the Fee

The costs of providing the fingerprint-based and name-based CHRI check services were calculated using the ABC model constructed by BearingPoint. The costs include operational labor costs; support labor costs; nonlabor costs including unfunded personnel and judgment fund costs; fingerprint identification automation costs; other criminal justice information service automation costs; and billing costs. These costs are discussed in more detail below.

Operational labor costs for fingerprint-based and name-based CHRI checks include the costs of those FBI employees who are involved in the operations and maintenance of the IAFIS and the processing of these transactions. Examples of these employees would include fingerprint examiners who use the IAFIS to make positive fingerprint identifications; information technology specialists who run the automated system network and communications lines; and a variety of other specialist positions providing customer service, billing, communication, policy, audit, and other direct support for the fingerprint-based and name-based CHRI check processes. The majority of these employees spend all of their time supporting these processes except the information technology specialists whose support is often provided for the whole CJIS Division infrastructure including other systems. BearingPoint conducted a robust analysis of the time these employees spent in support of each system within the overall infrastructure known as the system of systems. The costs for these employees are assigned to the user fee classes of service based on the results of this analysis.

Support labor costs for fingerprint-based and name-based CHRI checks include the costs of those FBI employees who are not directly involved in the CHRI check processes but who provide necessary support for these operations. Like the information technology specialists who support the whole CJIS Division infrastructure, many of the FBI employees perform activities which support a wide array of services. The costs for these employees were assigned to the user fee classes of service and to the general account for all other services based upon an analysis of the level of effort these positions provide to support the fingerprint-based and name-based CHRI check services. Examples of these employees would include human resource specialists, budget analysts, financial analysts, administrative support specialists, legal specialists, and some higher level management positions.

Nonlabor costs include items such as travel, utilities, printing, contractor support, supplies, and equipment. These costs also include depreciation for the facilities and buildings that the FBI owns. The equipment costs do not include any costs for the IAFIS. These costs could be listed here, but rather are listed in the fingerprint identification automation section for clarity. In all cases, these costs are assigned to the fingerprint-based and name-based CHRI check services and to the general account for all other services as appropriate based on detailed analysis of how these items are used.

Unfunded personnel costs were analyzed and the Federal Employee Compensation Account Workers Compensation and Unemployment Compensation costs were included in the ABC model constructed by BearingPoint. In 1956, Congress established a judgment fund to cover payment for legal judgments against the United States. The FBI's contribution to the judgment fund was also included in the ABC model. These costs were assigned to the fingerprint-based and name-based CHRI check services as well as to the general account as appropriate.

The fingerprint identification process automation costs include depreciation on the cost of automating the process for fingerprint-based and name-based CHRI checks. Note that these name-based CHRI checks are searches based on the biographic identifiers associated with fingerprint-based CHRI files and as such are part of the fingerprint identification process. These costs also include the costs for implementing a Continuity of Operations Program (COOP) as mandated by OMB Circular A–130. Again, these costs were assigned to the fingerprint-based and name-based check services as appropriate. COOP costs cover more than the fingerprint identification system since the FBI plan covers the entire infrastructure. These costs were also assigned to the general account as appropriate. The fingerprint identification process automation costs could be collected under OMB Circular A–25 as full costs of providing these services, but are being identified separately since the FBI also has specific authority under Public Law 101–515 to collect user fees to cover these costs.

Public Law 101–515 also authorizes the FBI to collect user fees to cover the automation costs for other criminal justice information services. These services are not specifically defined, and the FBI retains the authority to determine which system automation efforts will be classified as criminal justice information systems and funded with user fees. For the purposes of calculating these proposed fees, costs for automating certain functionalities, such as the NCIC, UCR, and the N–DEx, were included.

Electronic Fingerprint-Based CHRI Checks

The categories of cost were calculated for the electronic fingerprint-based CHRI check service as described above:

ELECTRONIC FINGERPRINT-BASED CHRI CHECK COSTS

[In thousands]

Operational Labor	$30,085
Support Labor	11,119
Nonlabor	38,152
Fingerprint Identification Automation	86,829

ELECTRONIC FINGERPRINT-BASED CHRI CHECK COSTS—Continued

[In thousands]

Other Criminal Justice Information Services Automation	50,253
Billing Costs	25,223
Total Costs	*$241,661

***Note:** Numbers may not add up due to rounding.

Electronic Submission/Manual Response Fingerprint-Based CHRI Checks

After the ABC model constructed by BearingPoint was developed, the CJIS Division added a new fee class for fingerprint-based CHRI checks, submitted electronically but requiring a manual response. In order to calculate the cost of these transactions, BearingPoint examined the costs and activities which are applicable to the processing of transactions submitted electronically but receiving a manual response. These costs can not be detailed in the same manner as the costs within the model because this fee was calculated outside of the model as a unit cost.

Manual Fingerprint-Based CHRI Checks

The categories of cost were calculated for the manual fingerprint-based CHRI check service as described above:

MANUAL FINGERPRINT-BASED CHRI CHECK COSTS

[In thousands]

Operational Labor Costs	$6,380
Support Labor	3,439
Nonlabor	8,803
Fingerprint Identification Automation	7,371
Other Criminal Justice Information Services Automation	4,266
Billing	2,141
Total Costs	*$32,400

***Note:** Numbers may not add up due to rounding.

Volunteer Fingerprint-Based CHRI Checks

As previously stated, the fee for fingerprint-based CHRI checks for volunteers submitting under the VCA is statutorily limited to $18.00 or the actual cost, whichever is less. The FBI has interpreted actual costs to be the full costs that could be collected under OMB Circular A–25. This includes the automation costs for the fingerprint identification process, but does not include the automation costs for other criminal justice information services. As stated previously, due to the small volume of volunteer transactions, it is not cost effective to charge different fees for volunteers based upon the type of transaction. The categories of cost were calculated for the volunteer fingerprint-based CHRI check service as described above:

VOLUNTEER FINGERPRINT-BASED CHRI CHECK COSTS

[In thousands]

Operational Labor Costs	$557.
Support Labor	206.
Nonlabor	706.
Fingerprint Identification Automation.	1,606.
Other Criminal Justice Information Services Automation.	Not applied.
Billing Costs	467.
Total Costs	*$3,541.

***Note:** Numbers may not add up due to rounding.

Electronic Name-Based CHRI Checks

Now that automation has significantly reduced response times for fingerprint-based CHRI checks, name checks are becoming obsolete. While these services are still being offered, the volume of these transactions has continued to decline due in large part to the increased speed of the fingerprint-based CHRI check service. Automation costs have not been added to the name-based CHRI check costs. Since name-based CHRI checks are only available to certain federal agencies, it is known that all submissions are billed and a separate billing cost was not calculated. The categories of cost were calculated for the electronic name-based CHRI check service as described above:

ELECTRONIC NAME-BASED CHRI CHECK COSTS

[In thousands]

Operational Labor Costs	$144.
Support Labor	132.
Nonlabor	160.
Fingerprint Identification Automation.	Not applied.
Other Criminal Justice Information Services Automation.	Not applied.
Billing	Not applied.
Total Costs	*$435.

***Note:** Numbers may not add up due to rounding.

Manual Name-Based CHRI Checks

As explained for electronic name-based CHRI checks, these costs do not include the automation or billing costs. The categories of cost were calculated for the manual name-based CHRI check service as described above:

MANUAL NAME-BASED CHRI CHECK COSTS

[In thousands]

Operational Labor	$182.
Support Labor	89.
Nonlabor	83.
Fingerprint Identification Automation.	Not applied.
Other Criminal Justice Information Services Automation.	Not applied.
Billing	Not applied.
Total Costs	*$355.

***Note:** Numbers may not add up due to rounding.

The Volumes Used To Calculate the Fee

The historical volumes of transactions for each type of service were reviewed. In 1982, when the user fee was implemented, the FBI processed 60,000 noncriminal fingerprint-based CHRI checks per month, or about 720,000 per year. The volume of all fingerprint-based CHRI checks has grown steadily; the FBI processed over 10 million noncriminal fingerprint-based CHRI checks in FY 2005, of which over 9 million were subject to a user fee. However, within this steady growth, there is an overall trend for manual transactions to decrease and for electronic transactions to grow even more rapidly than the overall volumes indicate.

After careful analysis of alternative approaches, it was determined that the most appropriate method to use for predicting the volumes for the fee calculation was a three-year average variance. The volume changes from FY 2003 to FY 2004, from FY 2004 to FY 2005, and from FY 2005 to FY 2006 were calculated and then averaged to determine a growth factor which was added to the FY 2006 volume to determine the projected FY 2007 volume. The growth factor was then added again to the projected FY 2007 volume to project the FY 2008 volume. An exception was made for the new fee class for fingerprint-based CHRI checks submitted electronically but receiving a manual response. In the past, these transactions were billed as manual transactions. In developing a volume projection, the FBI analyzed the transactions submitted by the current authorized users and estimated that 100,000 fingerprint-based CHRI checks submitted electronically but receiving a manual response would be processed in FY 2008. This number was then subtracted from the manual FY 2008 projection and added as the electronic submission/manual response FY 2008 projection. The historical and projected volumes for fee-producing name-based

and fingerprint-based CHRI checks are shown in the chart below.

Service	FY 2003 actual volume	FY 2004 actual volume	FY 2005 actual volume	FY 2006 actual volume	Three-year average variance	FY 2007 projected volume	FY 2008 projected volume
Fingerprint-Based CHRI Checks							
Manual	2,000,448	1,434,654	1,382,073	1,442,527	−185,974	1,256,553	*970,580
Electronic Submission/Manual Response	NA	NA	NA	NA	NA	NA	*100,000
Electronic	5,777,395	6,668,981	7,874,995	9,877,755	1,366,787	11,244,542	12,611,328
Volunteer	64,401	92,176	150,384	165,756	33,785	199,541	233,326
Name-Based CHRI Checks							
Manual	377	261	313	281	−32	249	217
Electronic	503,665	325,420	353,570	326,815	−58,950	267,865	208,915

*100,000 transactions moved from Manual to Electronic In/Manual Out service category to reflect implementation of the new fee class. These transactions are currently billed as manual transactions.

IV. Revised Fee Schedule

BearingPoint's final fee recommendations were made by dividing the costs for each service by the projected volume of transactions. The resulting unit costs were then rounded up to the next quarter dollar ($.25), an amount chosen to ensure calculation of full costs while avoiding calculation of excessive user fee revenues. The FBI then independently reviewed the BearingPoint recommendations, compared them to current fee calculations and plans for future services, and determined that the revised schedules were both objectively reasonable and in consonance with the underlying legal authorities. The following chart provides the revised fee schedule for the new classes defined above. The net amount to be remitted by a CSBP is provided for information purposes.

FINGERPRINT-BASED CHRI CHECKS

If the check is a/an . . .	The fee to be remitted with a direct payment is . . .	But, the amount to be remitted by a CBSP is . . .
Electronic transaction	$19.25	$17.25
Electronic submission/manual response transaction	26.00	24.00
Manual transaction	30.25	28.25
Volunteer under the VCA transaction	15.25	13.25

NAME-BASED CHRI CHECKS

[Only available to federal agencies with statutory authority to request checks]

If the check is a/an . . .	The fee is . . .
Electronic transaction	$2.25
Manual transaction	6.00

Under the revised schedule, user fees for many fingerprint-based and name-based CHRI checks will increase compared to current charges. However, the fees for fingerprint-based CHRI checks funded with other than federal appropriations and the fees for volunteers under the VCA will decrease and the fees for manual name-based CHRI checks will remain steady.

V. Administrative

Consultation With Federal, State, Tribal, and Local Governmental and Other Entities That Submit Fingerprint-Based and Name-Based CHRI Checks

The FBI has provided information about this proposed rule to the CJIS Advisory Policy Board (APB), an advisory committee chartered under provisions of the Federal Advisory Committee Act of 1972, 5 U.S.C. Appendix 2. The APB is comprised of representatives of local, state and federal law enforcement and criminal justice agencies and is responsible for reviewing policy, technical, and operational issues related to the criminal justice information services of the FBI. The FBI has also provided information about the proposed rule to the Compact Council, created pursuant to the National Crime Prevention and Privacy Compact Act of 1998, 42 U.S.C. 14611–14616. The Compact Council, comprised of state and federal noncriminal justice and criminal justice agencies, is permitted to promulgate rules and procedures governing the exchange, as authorized by federal and state statutes, of CHRI for noncriminal justice purposes. The FBI has also provided information about this proposed rule to several of the federal agencies which submit fingerprint-based or name-based CHRI checks.

Effective Date for the New Fees

The FBI seeks public comment in response to this proposed rule. Subsequent to the receipt of comments, the FBI will publish a final rule in the **Federal Register** which will outline the FBI's authority to establish, collect, and revise its fees. The FBI will publish concurrently a notice in the **Federal Register** which will provide the fee schedule. This new schedule will be put into effect in 90 days following publication of the notice.

Other Proposed Revisions or Studies

The FBI is committed to regularly reviewing and updating the costs for providing fingerprint-based and name-based CHRI checks. The fees will be revised, as appropriate, based on changes in cost and volume. Additionally, the FBI plans to conduct specific analyses in the following areas.

1. As mentioned earlier, the FBI will be revising the fee for the production of an FBI identification record in response to the written request by the subject

thereof as authorized in 28 CFR 16.33 in a separate rule.

2. As explained previously, record checks under Public Law 101–515 may be provided by both the RMD and the CJIS Division of the FBI. The proposed rule implements fees for the checks provided by the CJIS Division only. User fees for checks performed by RMD will be the subject of a separate rulemaking.

3. The FBI, as stated in section III above, will conduct an in-depth analysis of the amount that CBSPs are allowed to retain to cover the administrative costs that would be incurred by the FBI if centralized billing services were not available. This analysis will also develop and review alternative strategies to the practice of centralized billing services.

Communication Regarding the Fees

Any changes to the Fee Schedule will be published in the **Federal Register**. The FBI will continue to provide policy updates and suggestions for improved service, including tips for avoiding delays and errors, through CJIS Information Letters. Information on technical changes in fee collection processes, including instructions for the appropriate use of system codes that affect fees charged, will also be provided through CJIS Information Letters.

VI. Regulatory Certifications

Regulatory Flexibility Act

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (RFA) requires the agency to ''prepare and make available for public comment an initial regulatory flexibility analysis'' which will ''describe the impact of the proposed rule on small entities.'' (5 U.S.C. 603(a)). Section 605 of the RFA allows an agency to certify, in lieu of preparing an analysis, that the proposed rulemaking is not expected to have significant economic impact on a substantial number of small entities. Small entities are defined by the RFA to include small businesses, small organizations, and small governmental jurisdictions.

The fees for providing fingerprint-based and name-based CHRI background checks for noncriminal justice purposes normally are imposed upon the individual subject of the background check, rather than upon small entities. In addition, under the new fee schedule that became effective October 1, 2007, the fee imposed on nonfederal users submitting electronic fingerprint-based CHRI dropped nearly 20 percent per request. This lower fee is applicable to more than 90 percent of the total nonfederal fingerprint-based checks. However, the fee for manual searches was increased, reflecting comparatively higher processing costs for those services. As a result of these different fees, the FBI expects that users will seek the lower costs associated with providing electronic fingerprint submissions.

State and federal agencies and certain private entities serve as CBSPs, or entities that collect and submit an individual's fingerprints to the FBI and remit the fee charged to the individual. There are no small businesses, organizations or governmental jurisdictions currently providing billing services as CBSPs.

With regard to name-based CHRI checks, there is no direct or indirect impact on small entities, as only federal agencies are authorized to request name-based CHRI background checks, and federal agencies do not fall within the definition of a ''small entity.'' Accordingly, the Director of the FBI hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866 (Regulatory Planning and Review)

This regulation as been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review, section 1(b), Principles of Regulation. The FBI has determined that this rule is a significant regulatory action under Executive Order 12866, Regulatory Planning and Review, section 3(f) and accordingly this rule has been reviewed by the OMB.

Executive Order 12988 (Civil Justice Reform)

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13132 (Federalism)

This proposed rule will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The fees for providing fingerprint-based and name-based CHRI background checks for noncriminal justice purposes are imposed upon the individual subject of the background check, rather than on the state. Some states serve as CBSPs by collecting and submitting an individual's fingerprints to the FBI and remitting the fee charged to the individual. The proposed rule does not alter the amount the FBI allows CBSPs to retain for providing these services, but merely makes small adjustments to the fee schedule already in place. The proposed rule does not alter any of the policy set out at 28 CFR Part 20, or 28 CFR, Parts 901–906. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act of 1995

This proposed rule does not contain a mandate that will result in the expenditure by state, local, and tribal governments (in the aggregate) or by the private sector of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. While CBSPs may need to adjust their internal automated systems and processes, the change in fee amount is a foreseeable and expected eventuality and therefore, it is expected that these internal systems and processes were created with the capability of adjusting to changed fees without great cost or effort. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

List of Subjects in 28 CFR Part 20

Classified information, Crime, Intergovernmental relations, Investigations, Law enforcement, Privacy.

Accordingly, for the reasons set forth in the preamble, Part 20 of Chapter I of Title 28 of the CFR is proposed to be amended as follows:

PART 20—CRIMINAL JUSTICE INFORMATION SYSTEMS

1. The authority citation for part 20 is revised to read as follows:

Authority: 28 U.S.C. 534; Pub. L. 92–544, 86 Stat. 1115; 42 U.S.C. 3711, *et seq.*, Pub. L. 99–169, 99 Stat. 1002, 1008–1011, as amended by Pub. L. 99–569, 100 Stat. 3190, 3196; Pub. L. 101–515, as amended by Pub.

L. 104–99, set out in the notes to 28 U.S.C. 534.

2. Amend § 20.31 to add paragraph (e) to read as follows:

§ 20.31 Responsibilities.

* * * * *

(e) The FBI may routinely establish and collect fees for noncriminal justice fingerprint-based and other identification services as authorized by federal law. These fees apply to federal, state and any other authorized entities requesting fingerprint identification records and name checks for noncriminal justice purposes.

(1) The Director of the FBI shall review the amount of the fee periodically, but not less than every four years, to determine the current cost of processing fingerprint identification records and name checks for noncriminal justice purposes.

(2) Fee amounts and any revisions thereto shall be determined by current costs, using a method of analysis consistent with widely accepted accounting principles and practices, and calculated in accordance with the provisions of 31 U.S.C. 9701 and other federal law as applicable.

(3) Fee amounts and any revisions thereto shall be published as a notice in the **Federal Register**.

Dated: May 12, 2008.

Robert S. Mueller, III,

Director, Federal Bureau of Investigation.

[FR Doc. E8–13819 Filed 6–18–08; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Employment Standards Administration

29 CFR Parts 403 and 408

RIN 1215–AB62

Office of Labor-Management Standards; Labor Organization Annual Financial Reports

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, United States Department of Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the period for comments on the proposed rule published on May 12, 2008 (73 FR 27346). The proposed rule would make several revisions to the current Form LM–2, which is used by the largest labor organizations to file their annual financial reports under the Labor-Management Reporting and Disclosure Act of 1959, as amended, and would establish a procedure and standards by which the Secretary of Labor may revoke a particular labor organization's privilege to file a simplified annual report, Form LM–3, for a limited time where appropriate, after investigation, due notice and opportunity for a hearing. The comment period, which was to expire on June 26, 2008, is extended to July 11, 2008.

DATES: Comments on the proposed rule published on May 12, 2008 (73 FR 27346) must be received on or before July 11, 2008.

ADDRESSES: You may submit comments, identified by RIN 1215–AB62, by any of the following methods:

Internet—Federal eRulemaking Portal. Electronic comments may be submitted through *www.regulations.gov*. To locate the proposed rule, use key words such as ''Labor-Management Standards'' or ''Form LM–2'' to search documents accepting comments. Follow the instructions for submitting comments. Please be advised that comments received will be posted without change to *www.regulations.gov*, including any personal information provided.

Mail: Mailed comments should be sent to: Kay H. Oshel, Director of the Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5609, Washington, DC 20210.

Because of security precautions, the Department continues to experience delays in U.S. mail delivery. You should take this into consideration when preparing to meet the deadline for submitting comments.

Ensure that your comments are received within the specified open comment period. Before acting on this proposal, OLMS will consider all comments received on or before July 11, 2008. Comments received after that date will be considered only if it is possible to do so without incurring delay.

OLMS recommends that you confirm receipt of your mailed comments by contacting (202) 693–0123 (this is not a toll-free number). Individuals with hearing impairments may call (800) 877–8339 (TTY/TDD).

Only those comments submitted through *www.regulations.gov*, hand-delivered, or mailed will be accepted.

Comments will be available for public inspection during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kay H. Oshel, Director of the Office of Policy, Reports and Disclosure, at: Kay H. Oshel, U.S. Department of Labor, Office of Labor-Management Standards, 200 Constitution Avenue, NW., Room N–5609, Washington, DC 20210, (202) 693–1233 (this is not a toll-free number), (800) 877–8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 12, 2008 (73 FR 27346), the Department published a notice of proposed rulemaking that would make several revisions to Form LM–2 and would establish a procedure and standards by which the Secretary of Labor may revoke a particular labor organization's privilege to file a simplified annual report, Form LM–3, for a limited time where appropriate, after investigation, due notice and opportunity for a hearing.

Interested persons were invited to submit comments on or before June 26, 2008, 45 days after the publication of the notice. Based on requests that the Department extend the period for submitting comments, the Department has decided to extend the comment period until July 11, 2008.

The proposed rule, including the proposed revised Form LM–2 and its instructions, is available on the Web site maintained by OLMS at *http://www.olms.dol.gov*. Anyone who is unable to access this information on the Internet can obtain the information by contacting the Employment Standards Administration at 200 Constitution Avenue, NW., Room N–5609, Washington, DC 20210, at *olms-public@dol.gov* or at (202) 693–0123 (this is not a toll-free number). Individuals with hearing impairments may call 1–800–877–8339 (TTY/TDD).

Signed at Washington, DC, this 13th day of June, 2008.

Dixon M. Wilson,

Deputy Assistant Secretary for Employment Standards.

Don Todd,

Deputy Assistant Secretary for Labor-Management Programs.

[FR Doc. E8–13837 Filed 6–18–08; 8:45 am]

BILLING CODE 4510–CM–P

Notices

Federal Register

Vol. 73, No. 119

Thursday, June 19, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. *Comments are requested concerning:* (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Submit comments on or before August 18, 2008.

ADDRESSES: Send comments via e-mail at *kmonsess@usaid.gov* or mail comments to: Kenneth Monsess, Procurement Analyst, Office of Acquisition and Assistance, United States Agency for International Development, Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Washington, DC 20523 (202–712–4913).

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development. Room 2.07–106, RRB, Washington, DC 20523, (202) 712–1365 or via e-mail *bjohnson@usaid.gov*.

SUPPLEMENTARY INFORMATION:

OMB No.: OMB 0412–0004. Form No.: AID 11.

Title: Application for Approval of Commodity Eligibility.

Type of Review: Renewal of Information Collection.

Purpose: USAID provides loans and grants to some developing countries in the form of Commodity Import Programs (CIP5). These funds are made available to host countries to be allocated to the public and private sectors for purchasing various commodities from the U.S., or in some cases, from other developing countries. In accordance with section 604(f) of the Foreign Assistance Act of 1961, as amended, USAID may finance only those commodities which are determined eligible and suitable in accordance with various statutory requirements and agency policies. Using the Application for approval of Commodity Eligibility (form AID 11), the supplier certifies to USAID information about the commodities being supplied, as required in section 604(f), so that USAID may determine eligibility.

Annual Reporting Burden:

Respondents: 20.

Total annual responses: 40.

Total annual hours requested: 20 hours.

Dated: June 10, 2008.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. E8–13859 Filed 6–18–08; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Georgia Transmission Corporation: Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: The Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development and/or the Agency, has made a finding of no significant impact (FONSI) with respect to a request for possible financing assistance to Georgia Transmission Corporation for the construction of the approximately 38.7-mile Thomson-Warthen 500 kV transmission line connecting GTC's Thomson Primary 500/230/115/46 kV Substation in McDuffie County, Georgia to their Warthen 500 kV Switching Station in Washington County, Georgia.

ADDRESSES: To obtain copies of the EA and FONSI, or for further information, contact: Stephanie Strength, Environmental Protection Specialist, USDA, Rural Development Utilities Programs, 1400 Independence Avenue, SW., Stop 1571,Washington, DC 20250–1571, *Telephone:* (202) 720–0468 or *e-mail: stephanie.strength@wdc.usda.gov.* The EA and FONSI are also available for public review at USDA Rural Development, 1400 Independence Avenue, SW., Washington, DC 20250–1571, and at Georgia Transmission headquarters at 2100 East Exchange Place, Tucker, GA.

SUPPLEMENTARY INFORMATION: The proposed project consists of the construction of approximately 38.7 miles of 500 kV Transmission Lines on a 150-foot right of way. The transmission line conductors and static wire would be strung on lattice steel structures ranging in height from 80 feet to 150 feet. The transmission line would traverse McDuffie, Warren, Glascock, and Washington Counties in Georgia.

Alternatives considered by USDA Rural Development and Georgia Transmission Corporation include: (a) No action, (b) alternative transmission improvements, and (c) alternate transmission line corridors. The alternatives are discussed in the Thomson-Warthen 500 kV Transmission Line Environmental Report (ER). The USDA Rural Development has accepted the ER as its EA for the proposed project.

The availability of the EA for public review was announced via a legal notice and display ad in the **Federal Register** and in the following newspapers: The News and Farmer, Jefferson Reporter, and The Sandersville Progress on April 30, 2008. The Warrenton Clipper and The McDuffie Progress published the ads on May 1, 2008. A 30-day comment period was announced in the newspaper's legal notice section and the **Federal Register**. The EA was available for public review at the USDA Rural Development office and Web site as well

as Georgia Transmission Corporation's offices. No comments were received by USDA Rural Development or Georgia Transmission Corporation.

Based on its EA and commitments made by GTC in the EA, USDA Rural Development has concluded that the project would have no significant impact (or no impacts) to water quality, wetlands, the 100-year floodplain, land use, aesthetics, transportation, or human health and safety. The proposed project will have no adverse effect on resources listed or eligible for listing on the National Register of Historic Places. USDA Rural Development has also concluded that the proposed project is not likely to affect Federally listed threatened and endangered species or designated critical habitat thereof. The proposed project would not disproportionately affect minority and/or low-income populations.

No other potential significant impacts resulting from the proposed project have been identified. Therefore, USDA Rural Development has determined that this FONSI fulfills its obligations under the National Environmental Policy Act, as amended (42 U.S.C. 4321 et seq.), the Council on Environmental Quality Regulations (40 CFR 1500–1508), and USDA Rural Development's Environmental Policies and Procedures (7 CFR Part 1794) for its action related to the project.

USDA Rural Development is satisfied that the environmental impacts of the proposed project have been adequately addressed. Since USDA Rural Development's Federal action would not result in significant impacts to the quality of the human environment, it will not prepare an environmental impact statement for its action related to the proposed project.

Dated: June 16, 2008.

James R. Newby,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. E8–13895 Filed 6–18–08; 8:45 am]

BILLING CODE 3410–15–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the North Carolina 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 a planning meeting of the North Carolina Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 3 p.m. on Monday, July 21, 2008, at 150 Fayetteville Street, 13th Floor, Raleigh, North Carolina, 27601. The purpose of the meeting is for the Committee to discuss a draft of its report on the effect of local human rights agencies on the enforcement of fair housing.

Members of the public are entitled to submit written comments; the comments must be received in the regional office by July 31, 2008. The address is 61 Forsyth St., SW., Suite 18T40, Atlanta, Georgia, 30303. Persons wishing to e-mail comments may do so to *pminarik@usccr.gov.* Persons who desire additional information should contact Peter Minarik, Regional Director, at (404) 562–7000 or 800–877–8339 for individuals who are deaf, hearing impaired, and/or have speech disabilities or by e-mail to *pminarik@usccr.gov.*

Hearing-impaired persons who will attend the meeting 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 meeting.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, U.S. Commission on Civil Rights, as they become available, both before and after the meeting. 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 Southern Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, June 16, 2008.

Christopher Byrnes,

Chief, Regional Programs Coordination Unit.

[FR Doc. E8–13880 Filed 6–18–08; 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: National Oceanic and Atmospheric Administration (NOAA).

Title: Cooperative Game Fish Tagging Report.

Form Number(s): None.

OMB Approval Number: 0648–0247.

Type of Request: Regular submission.

Burden Hours: 400.

Number of Respondents: 12,000.

Average Hours Per Response: 2 minutes.

Needs and Uses: The Cooperative Game Fish Tagging Program was initiated in 1971 as part of a comprehensive research program resulting from passage of Public Law 86–359, Study of Migratory Game Fish, and other legislative acts under which the National Marine Fisheries Service operates. The Cooperative Tagging Center attempts to determine the migration patterns and other biological information of billfish, tunas, and swordfish. The fish tagging report is used to collect the information and provided to the angler with the tags, and he/she completes the report with the information when a fish is tagged. The card is then mailed back to NMFS where the data is stored.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

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 David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: June 13, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–13814 Filed 6–18–08; 8:45 am]

BILLING CODE 3510–22–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: National Oceanic and Atmospheric Administration (NOAA).

Title: High Seas Fishing Vessel Identification Requirements.
Form Number(s): None.
OMB Approval Number: 0648–0348.
Type of Request: Regular submission.
Burden Hours: 38.
Number of Respondents: 50.
Average Hours per Response: 45 minutes.
Needs and Uses: Vessels licensed under the High Seas Fishing Compliance Act are required to mark their vessels in three places (port and starboard sides of the deckhouse or hull, and on a weather deck) with their official number or international radio call sign. This identification is necessary for enforcement purposes.
Affected Public: Business or other for-profit organizations.
Frequency: Annually.
Respondent's Obligation: Mandatory.
OMB Desk Officer: David Rostker, (202) 395–3897.

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 David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: June 13, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–13815 Filed 6–18–08; 8:45 am]

BILLING CODE 3510–22–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: National Oceanic and Atmospheric Administration (NOAA).
Title: Protocol for Access to Tissue Specimen Samples from the National Marine Mammal Tissue Bank.
Form Number(s): None.
OMB Approval Number: 0648–0468.
Type of Request: Regular submission.
Burden Hours: 155.
Number of Respondents: 50.
Average Hours per Response: Applications and research reports, 2 hours; tissue bank submission forms, 45 minutes.

Needs and Uses: The current purpose of this collection of information is to enable National Oceanic and Atmospheric Administration (NOAA) to allow the scientific community the opportunity to request tissue specimen samples from the National Marine Mammal Tissue Bank (NMMTB). This information collection is being revised to also enable the Marine Mammal Health and Stranding Response Program (MMHSRP) of NOAA to assemble information on all specimens submitted to the National Biomonitoring Specimen Bank (Bank), which includes the NMMTB. These samples will be collected from marine mammals, sea turtles, sea birds, and other marine animals as needed by volunteers and researchers participating in the Program.

The specimen banking information sheets will ask for basic data such as species, date collected, condition of tissue, and biology of animal sampled. This information is essential for the analysis, comparison, and interpretation of submitted specimens.

Affected Public: Not-for-profit institutions; State, Local or Tribal Government; business or other for-profit organizations; individuals or households.

Frequency: Annually and on occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

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 David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: June 13, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–13816 Filed 6–18–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket T–2–2008]

Foreign-Trade Zone 26—Atlanta, GA, Request for Temporary/Interim Manufacturing Authority, Extension of Comment PeriodKia Motors Manufacturing Georgia, Inc. (Motor Vehicles)

Based on a request from interested parties, the comment period for the application submitted to the Foreign-Trade Zones Board (the Board) by Georgia Foreign-Trade Zone, Inc. (73 FR 27492, 5–13–2008), grantee of FTZ 26, requesting temporary/interim manufacturing (T/IM) authority within FTZ 26 at the Kia Motors Manufacturing Georgia, Inc., facility in West Point, Georgia, has been extended to July 14, 2008 to allow interested parties additional time in which to comment. Rebuttal comments may be submitted during the subsequent 15 day period, until July 29, 2008.

Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the following address: Office of the Executive Secretary, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230–0002. For further information, contact Pierre Duy, examiner, at: pierre_duy@ita.doc.gov, or (202) 482–1378.

Dated: June 12, 2008.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E8–13894 Filed 6–18–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

Docket 40–2008

Foreign–Trade Zone 50 - Long Beach, CA, Request for Manufacturing Authority, Phoenix MC, Inc. d/b/a Phoenix Motorcars, Inc. (Motor Vehicles)

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Board of Harbor Commissioners of the Port of Long Beach, grantee of FTZ 50, pursuant to Section 400.32(b)(1) of the Board's regulations (15 CFR Part 400), requesting authority on behalf of Phoenix MC, Inc. d/b/a Phoenix Motorcars, Inc. (PMI), to assemble light–duty passenger vehicles under FTZ

procedures within FTZ 50. It was formally filed on June 13, 2008.

The PMI facility (24,500 sq.ft./15 employees) is located at 401 S. Doubleday Avenue (Site 1) in Ontario, California. The facility, currently under construction, will be used to produce electric–powered, light–duty passenger vehicles (sport utility trucks, sport utility vehicles; HTSUS 8703.90; duty rate: 2.5%) for export and the domestic market. At full capacity, the facility (about 50 employees) will assemble up to approximately 30,000 vehicles annually. Under FTZ procedures, PMI would admit foreign semi–finished vehicle bodies (HTSUS 8707.10, duty rate: 2.5%) to FTZ 50 to be equipped with domestic electric drive train systems and batteries.

FTZ procedures would exempt PMI from customs duty payments on the foreign vehicle bodies used in export production. On its domestic sales, PMI would be able to defer payment of customs duties on the foreign vehicle bodies until the finished motor vehicles are entered for consumption from the zone. Customs duties also could possibly be deferred or reduced on foreign status production equipment. The application indicates that the savings from FTZ procedures would help improve the facility's international competitiveness.

In accordance with the Board's regulations, Pierre Duy of the FTZ Staff is designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the following address: Office of the Executive Secretary, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230–0002. The closing period for receipt of comments is August 18, 2008. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period toSeptember 2, 2008.

A copy of the application will be available for public inspection at the Office of the Foreign–Trade Zones Board's Executive Secretary at the address listed above. For further information, contact Pierre Duy, examiner, at: pierre__duy@ita.doc.gov, or (202) 482–1378.

Dated: June 13, 2008.

Andrew McGilvray,

Executive Secretary,

[FR Doc. E8–13883 Filed 6–18–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Ohio State University, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301).

Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 2104, U.S. Department of Commerce, 14th and Constitution Avenue., NW., Washington, DC.

Docket Number: 08–014. *Applicant:* Ohio State University, Columbus OH 43210. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, The Netherlands. *Intended Use:* See notice at 73 FR 30377.

Docket Number: 08–015. *Applicant:* Texas Children's Hospital, Houston, TX 77030. *Instrument:* Transmission Electron Microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* See notice at 73 FR 30377.

Docket Number: 08–020. *Applicant:* Bergen County Technical Schools/ Bergen County Academies, Hackensack, NJ 07601. *Instrument:* Scanning Electron Microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* See notice at 73 FR 30377.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Dated: June 16, 2008.

Faye Robinson,

Director, Statutory Import Programs Staff, Import Administration.

[FR Doc. E8–13886 Filed 6–18–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Texas Christian University, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 2104, U.S. Department of Commerce, 14th and Constitution Avenue., NW., Washington, DC.

Docket Number: 08–019. *Applicant:* Texas Christian University, Fort Worth, TX 76129. *Instrument:* Electron Microscope, Model JEM–2100. *Manufacturer:* JEOL, Inc., Japan. *Intended Use:* See notice at 73 FR 30378, May 27, 2008.

Docket Number: 08–023. *Applicant:* Washington University in St. Louis, University City, MO 63130. *Instrument:* Electron Microscope, Model Tecnai G2 Spirit Twin. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* See notice at 73 FR 30378, May 27, 2008.

Docket Number: 08–024. *Applicant:* Washington University in St. Louis, University City, MO 63130. *Instrument:* Electron Microscope, Model Nova NanoSEM 230. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* See notice at 73 FR 30378, May 27, 2008.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Dated: June 16, 2008.

Faye Robinson,

Director, Statutory Import Programs Staff, Import Administration.

[FR Doc. E8–13888 Filed 6–18–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

The Manufacturing Council: Meeting of The Manufacturing Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an Open Meeting via Teleconference.

SUMMARY: The Manufacturing Council will hold a meeting via teleconference to conduct their inaugural meeting and receive briefings regarding sustainable manufacturing.

DATES: June 27, 2008.

Time: 1 p.m. (EDT).

For the Conference Call-In Number and Further Information, Contact: The Manufacturing Council Executive Secretariat, Room 4043, Washington, DC 20230 (Phone: 202–482–1369), or visit the Council's Web site at *http://www.manufacturing.gov/council*.

Dated: June 13, 2008.

Caroline Swann,

Director, Office of Advisory Committees.

[FR Doc. 08–1368 Filed 6–13–08; 3:58 pm]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Stellwagen Bank National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Stellwagen Bank National Marine Sanctuary (SBNMS or sanctuary) is seeking applicants for the following vacant seats on its Sanctuary Advisory Council (Council): At-Large (Alternate). Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the sanctuary. Applicants who are chosen as members should expect to serve two-to-three-year terms, pursuant to the Council's Charter.

DATES: Applications are due by 15 September 2008.

ADDRESSES: Application kits may be obtained from *Elizabeth.Stokes@noaa.gov.* Stellwagen Bank National Marine sanctuary, 175 Edward Foster Road, Scituate, MA 02066. Telephone 781–545–8026 X201. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: For further questions contact: *Nathalie.Ward@noaa.gov,* External Affairs Coordinator. Telephone: 781–545–8026 X 206.

SUPPLEMENTARY INFORMATION: The Stellwagen Bank National Marine Sanctuary Advisory Council was established in March 2001 to assure continued public participation in the management of the Sanctuary. The Advisory Council's 21 members represent a variety of local user groups, as well as the general public, plus seven local, state and federal government agencies. Since its establishment, the Council has played a vital role in advising the sanctuary and NOAA 2 on critical issues and is currently focused on the sanctuary's new five-year Management Plan.

The Stellwagen Bank National Marine Sanctuary encompasses 842 square miles of ocean, stretching between Cape Ann and Cape Cod. Renowned for its scenic beauty and remarkable productivity, the sanctuary supports a rich diversity of marine life including 22 species of marine mammals, more than 30 species of seabirds, over 60 species of fishes, and hundreds of marine invertebrates and plants.

Authority: 16 U.S.C. Sections 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: June 10, 2008.

Daniel J. Basta,

Director, National Marine Sanctuary Program, National Oceanic Service, National Oceanic and Atmospheric Administration.

[FR Doc. E8–13803 Filed 6–18–08; 8:45 am]

BILLING CODE 3510–NK–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation'') has submitted a public information collection request (ICR) entitled Interest Accrual Form, to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Bruce Kellogg at 202–606–6954. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 565–2799 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register**:

(1) *By fax to:* (202) 395–6974, *Attention:* Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service; and

(2) Electronically by e-mail to: *Katherine_T._Astrich@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Comments

A 60-day public comment Notice was published in the **Federal Register** on March 27, 2008. This comment period ended May 25, 2008. No public comments were received from this notice.

Description: Currently, the Corporation is soliciting comments concerning the proposed renewal of its Interest Accrual Form. This form or its electronic equivalent is used by

AmeriCorps members to request a payment of the interest accruing on qualified loans during the AmeriCorps member's term of service, if their loans were in forbearance during their service and if they successfully complete their terms of service. The form serves to give the member's permission to and directs the loan holder to release loan information to the Corporation so that the National Service Trust can make the interest payment. The form has a ''Manual'' version generated from the online request when the institution is not registered online, which provides the member's electronic signature. The non-electronic version provides a space for the member and the loan holder to sign.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Interest Accrual Form.

OMB Number: 3045–0053.

Agency Number: None.

Affected Public: Individuals who have completed a term of national service who wish the National Service Trust to pay certain interest accruing on qualified student loans.

Total Respondents: 4,000 responses annually, using the paper form.

Frequency: Some members do not have qualified student loans while others have several. Currently, over half of the interest payments are processed electronically. The Corporation expects the use of paper forms to decrease over the next few years.

Average Time Per Response: Total of 10 minutes (one minute for the AmeriCorps member's section (non-electronic version) and nine minutes for the loan holder).

Estimated Total Burden Hours: 667 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: June 11, 2008.

Maggie Taylor-Coates,

Manager (Acting), National Service Trust.

[FR Doc. E8–13866 Filed 6–18–08; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted a public information collection request (ICR) entitled Forbearance Request for National Service Form, to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Bruce Kellogg at 202–606–6954. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 565–2799 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, *Attn:* Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register**:

(1) *By fax to:* (202) 395–6974, Attention: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service; and

(2) *Electronically by e-mail to:* *Katherine_T._Astrich@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Comments

A 60-day public comment Notice was published in the **Federal Register** on March 27, 2008. This comment period ended May 25, 2008. No public comments were received.

Description: Currently, the Corporation is soliciting comments concerning the proposed renewal of its Forbearance Request for National Service Form. This form or the electronic equivalent are used by AmeriCorps members to request a postponement, during their term of service, of their obligation to make payment on qualified student loans while they are earning a minimal living allowance in their national service position. The form provides proof that the borrower is serving in an approved national service position, thereby meeting the criteria for the mandatory forbearance based on national service. The form has a ''Manual'' version generated from the online request when the institution is not registered online, which provides the AmeriCorps member's electronic signature. The non-electronic version provides a space for the member and the authorized program official to sign.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Forbearance Request for National Service Form.

OMB Number: 3045–0030.

Agency Number: None.

Affected Public: Individuals who have enrolled in a term of national service who wish to postpone loan payments on qualified loans while they serve.

Total Respondents: 11,000 responses annually, using the paper form.

Frequency: Some members do not have any qualified student loans while others have several. Currently, we estimate about half of the forbearance requests are processed electronically. The Corporation expects the use of paper forms to decrease over the next few years.

Average Time per Response: Total of 10 minutes (9 minutes for the AmeriCorps member's section (non-electronic version) and 1 minute for certification).

Estimated Total Burden Hours: 1,833 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: June 11, 2008.

Maggie Taylor-Coates,

Manager (Acting), National Service Trust.

[FR Doc. E8–13867 Filed 6–18–08; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent to Prepare an Environmental Impact Statement for the Eligible Fort Kamehameha Historic District Alternatives at Hickam Air Force Base, HI

AGENCY: Pacific Air Forces, Department of the Air Force.

ACTION: Notice of Intent.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969 (42 United States Code [U.S.C.] §§ 4321–4347), the Council on Environmental Quality (CEQ) NEPA Regulations (40 Code of Federal Regulations [CFR] Parts 1500–1508), and the United States Air Force's (Air Force) Environmental Impact Analysis Process (EIAP) (32 CFR Part 989), the Air Force is issuing this notice to advise the public of its intent to prepare an Environmental Impact Statement (EIS).

The EIS will assess the potential environmental consequences of a proposal to define final disposition of housing units and associated structures known as the ''Fort Kamehameha Historic District''; an area on Hickam AFB, O'ahu, Hawai'i, eligible for listing on the National Register of Historic Places (NRHP) in accordance with Section 110(a)(2) of the National Historic Preservation Act (NHPA).

Alternatives currently identified for evaluation would include various options that fall under the five categories of: adaptive-use; relocation; deconstruction and salvage; demolition; and the No Action alternative. Any Proposed Action could include a single action, or combination of actions, under the five categories above. Sub-actions under these categories may include: leasing; sale; transfer to another government agency; and retention by the Air Force. Compliance with the NHPA will be done through consultation under Section 106 of 36 CFR Part 800.

DATES: The Air Force will hold a scoping meeting to solicit public input concerning the scope of the Proposed Action and alternatives, as well as to help identify other concerns and issues to be addressed in the environmental analysis.

The scoping meeting will be held Thursday, July 8, 2008 from 5 to 8 p.m. at the Aliamanu Elementary School, 3265 Salt Lake Boulevard, Honolulu, HI.

ADDRESSES: Federal, state, and local agencies, and interested groups and persons are invited to attend the scoping meeting. All are encouraged to provide comments on the proposed action either at the scoping meeting or by mail, postmarked by July 21, 2008 to ensure proper consideration in the environmental impact analyses.

FOR FURTHER INFORMATION: Direct written comments or requests for further information to: Ms. Tiffany Patrick, 15 CES/CEVP NEPA Program Technical Support, 75 H Street, Bldg. 1202, Hickam AFB, HI 96853, Ph: (808) 449–3197.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E8–13845 Filed 6–18–08; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Preparation of an Environmental Impact Statement (EIS) for Development and Implementation of Range-Wide Mission and Major Capabilities at White Sands Missile Range (WSMR), NM

AGENCY: Department of the Army.

ACTION: Notice of intent.

SUMMARY: The Department of the Army announces its intent to prepare an EIS for expanded activities on WSMR. This EIS will analyze the impacts of new mission requirements and development of new test and training capabilities and associated land use changes to support Army Transformation, the Army Campaign Plan, Future Combat Systems, Grow the Army, and other Army initiatives. This includes the stationing of a Heavy Brigade Combat Team (HBCT) of approximately 3,800 Soldiers at WSMR. This action also supports WSMR as a test bed for rapid development and deployment of new systems in response to rapidly changing world conditions and long-term Department of Defense, U.S. Army Developmental Test Command, and Army planning. Specifically, this EIS will assess environmental impacts associated with changing land uses to allow for expanded off-road maneuver in some areas, to support new testing capabilities and requirements, and continuing off-post to on-post tests. It will also address new weapons firing ranges and capabilities, as well as Soldier and Family housing, schools, infrastructure, utilities, and administrative and related facilities needed to support stationing of the HBCT at WSMR. The proposed action would result in a flexible, capabilities-based airspace and land use plan able to accommodate rapidly evolving customer needs, support current and future mission activities, and support a full range of test and training efforts from individual components up through major joint and multinational programs.

ADDRESSES: Written comments should be forwarded to: White Sands Test Center, Operations Office, *Attention:* Catherine Giblin, 124 Crozier Street, Building 124, White Sands Missile Range, NM 88002; faxed to (575) 678–4082; or e-mailed to: *WSMREIS@conus.army.mil.*

FOR FURTHER INFORMATION CONTACT: Monte Marlin, Public Affairs Office, Building 1782, Headquarters Avenue, White Sands Missile Range, NM, 88002; (575) 678–1134; or e-mail: *monte.marlin@us.army.mil.*

SUPPLEMENTARY INFORMATION: The EIS will assess the environmental impacts associated with WSMR's development and implementation of an airspace and land use plan to support Army Transformation, Grow the Army and the Army Campaign Plan initiatives by more fully realizing and integrating the capabilities of the WSMR primacy mission—research, development, testing, and evaluation (RDTE)—and impacts associated with new training capabilities and stationing decisions. Testing typically involves activities such as missile flight tests, aerial intercepts, air-delivered munitions tests against ground targets, directed energy and various weapons systems tests. Training involves military personnel using the land and airspace for maneuver and weapons firing, as well as for field evaluation of weapons, equipment, communication systems, or other objectives. Stationing involves the establishment of infrastructure such as barracks, motor pools, and administrative buildings for Soldiers of the HBCT and their equipment. Requirements for new use of test and training capabilities would result in changing land use designations within the current installation boundaries. These changes would support current and future requirements and allow off-road vehicle maneuver on designated portions of the installation. WSMR will maintain its current RDTE mission and continue to support joint testing objectives.

The EIS will evaluate and disclose the impacts of two alternatives as well as a no action alternative.

No Action Alternative: This alternative includes current test capabilities and land use designations with current levels of operations and activities.

Alternative 1: This alternative includes those activities described in

the No Action alternative plus changes in land use to expand testing and maneuver capabilities to include Future Combat Systems and supporting infrastructure. This alternative supports the Grow the Army decision to station an HBCT at WSMR that requires main cantonment expansion and additional supporting infrastructure. Training for the newly stationed units, to include the HBCT and the 2nd Engineer Battalion, will leverage the considerable range modernization that is taking place at Fort Bliss.

Alternative 2: This alternative includes those activities described in Alternative I and also includes the construction and operation of training ranges and the identification of maneuver areas for testing and training on WSMR.

The EIS will evaluate the environmental effects associated with the varying testing, training, maneuver and facility requirements of each alternative on the natural, cultural, and man-made environments at WSMR and in the southern New Mexico region.

Federal, State, and local agencies, affected federally recognized Indian tribes, and other interested persons are invited to participate in the scoping process for the preparation of this EIS. Public scoping meetings in the vicinity of the installation will be held to facilitate input to the EIS process from interested parties. Dates for the meetings will be announced in the local media and will be at times and locations convenient to the public. To ensure scoping comments are fully considered in the Draft EIS, comments and suggestions should be received within the 30-day scoping period or no later than 15 days following the last scoping meeting, whichever is later.

Dated: June 11, 2008.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health).

[FR Doc. E8–13622 Filed 6–18–08; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 21, 2008.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response, ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

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 Acting Leader, Information Collection Clearance Division, 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.

Dated: June 13, 2008.

Kate Mullan,

Acting Leader, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title: FRSS Educational Technology in Public Schools.

Frequency: One time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 2,000.

Burden Hours: 1,000.

Abstract: This fast response survey will collect information from a sample of 2,000 public schools. It will provide national data on technology access and use. The survey will cover topics such as ratio of students to instructional computers in the school, hardware, network and Internet access, teacher training and support for technology in the schools.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3729. 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. E8–13817 Filed 6–18–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests; Comment Request

AGENCY: Department of Education.

ACTION: Correction Notice.

SUMMARY: On June 16, 2008, the Department of Education published a comment period notice in the **Federal Register** (Page 33994, Column 2) for the information collection, ''Generic Application Package for Discretionary Grant Programs.'' This notice hereby corrects the responses to 10,236 and the burden hours to 360,550. The IC Clearance Official, Regulatory Information Management Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: June 16, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

[FR Doc. E8–13881 Filed 6–18–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Discovery Technology International, LLLP

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Notice of invention available for license and intent to grant exclusive license.

SUMMARY: Notice is hereby given that U.S. Patent Application Serial No. 10/876,296, entitled ''Micromanipulator'', and U.S. Patent Application No. 11/406,335, entitled ''Piezoelectric Valve'', both developed under projects with the Science and Technology Center in the Ukraine (STCU), are available for licensing in the United States as deemed appropriate in the public interest. Discovery Technology International, LLLP (DTI), of Sarasota, Florida, has applied for an exclusive license to practice both inventions in the United States. The U. S. Government has the exclusive authority to license the inventions in the United States.

DATES: Written comments or nonexclusive license applications are to be received at the address listed below no later than July 21, 2008.

ADDRESSES: Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: John T. Lucas, Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, Forrestal Building, Room 6F–067, 1000 Independence Ave., SW., Washington, DC 20585; Telephone (202) 586–2939.

SUPPLEMENTARY INFORMATION: 35 U.S.C. 209 provides federal agencies with authority to grant exclusive licenses in federally owned inventions, if, among other things, the agency finds that the public will be served by the granting of the license. The statute requires that no exclusive license may be granted unless public notice of the intent to grant the license has been provided, and the agency has considered all comments received in response to that public notice, before the end of the comment period.

DTI of Sarasota, Florida, has applied for an exclusive license to the Micromanipulator and Piezoelectric Valve inventions and has plans for their commercialization. The exclusive license will be subject to a license and other rights retained by the U.S. Government, and other terms and conditions to be negotiated. DOE intends to negotiate to grant the license, unless, within 30 days of this notice, the Assistant General Counsel for Technology Transfer and Intellectual Property, Department of Energy, Washington, DC 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reason why it would not be in the best interests of the United States to grant the proposed license; or

(ii) An inquiry concerning the technology, followed by an application for a nonexclusive license to the technology in which the applicant states that it already has brought the invention(s) to practical application or is likely to bring the invention(s) to practical application expeditiously.

The Department will review all timely written responses to this notice, and will proceed with negotiating the license if, after consideration of written responses to this notice, a finding is made that the license is in the public interest.

Issued in Washington, DC, on June 12, 2008.

Paul A. Gottlieb,

Assistant General Counsel for Technology Transfer and Intellectual Property.

[FR Doc. E8–13861 Filed 6–18–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2210–175]

American Electric Power; Notice of Application for Amendment of License And Soliciting Comments, Motions to Intervene, and Protests

June 12, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request to increase water withdrawal for municipal use.

b. *Project No.:* 2210–175.

c. *Date Filed:* May 27, 2008.

d. *Applicant:* American Electric Power.

e. *Name of Project:* Smith Mountain.

f. *Location:* Smith Mountain Lake on the Roanoke River, Bedford County, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Frank M. Simms, American Electric Power, P.O. Box 2021, Roanoke, Virginia 24022–2121 (540) 985–2875.

i. *FERC Contact:* Derek Crane, *derek.crane@ferc.gov* (202) 502–8047.

j. Deadline for filing comments, motions to intervene and protests: July 11, 2008.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* American Electric Power (AEP) proposes to grant permission to Bedford County Public Service Authority (BCPSA) to install a 12-inch diameter, high density polyethylene raw water intake pipeline and associated intake structure within the Smith Mountain Project boundary to increase water withdrawn from the Smith Mountain Project reservoir from an annual average of 0.5 million gallons per day (mgd) and peak of 0.999 mgd to an annual average of 2.0 mgd with a peak of 2.999 mgd. The proposed withdrawal is for municipal use by the BCPSA, Bedford County, GA.

l. *Location of the Application:* The filing is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426 or by calling (202) 502–8371, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docsfiling/esubscription.asp* to be notified via e-mail of new filings and

issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filing must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(I)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–13809 Filed 6–18–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2426–197]

California Department of Water Resources and the City of Los Angeles; Notice of Availability of Final Environmental Assessment

June 12, 2008.

In accordance with the National Environmental Policy Act of 1969 and Federal Energy Regulatory Commission (Commission or FERC) regulations, 18 CFR Part 380, the Office of Energy Projects staff (staff) reviewed the application for amendment of project license for the California Aqueduct Project, located on Piru Creek in California and prepared an environmental assessment (EA) for the project. A draft EA was prepared and issued for public comment on March 1, 2007. In this final EA, staff analyzes the potential environmental effects of the proposed minimum flow modification and concludes that amending the license as proposed with staff-recommended additional measures would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the final EA is available for review at the Commission in the Public Reference Room, or it may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''e-Library'' link. Enter the docket number P–2426–197 (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.

You also may register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, please contact Rebecca Martin by telephone at (202) 502–6012 or by e-mail at *Rebecca.Martin@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. E8–13810 Filed 6–18–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

June 12, 2008.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–101–000.

Applicants: Aircraft Services Corporation; Wachovia New Sub, LLC; Tatanka Wind Power, LLC.

Description: Application of Aircraft Services Corporation, *et al.* for Order Authorizing Disposition of Jurisdictional Facilities Under Section 203 of the FPA.

Filed Date: 06/10/2008.

Accession Number: 20080610–5086.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 01, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER96–1551–020; ER01–615–016; ER07–965–002; ER08–1022–001; ER08–1023–001.

Applicants: Public Service Company of New Mexico.

Description: Public Service Co of New Mexico *et al.* submits an amendment to their pending compliance filing.

Filed Date: 06/05/2008.

Accession Number: 20080611–0118.

Comment Date: 5 p.m. Eastern Time on Thursday, June 26, 2008.

Docket Numbers: ER96–2601–021; ER96–2602–010.

Applicants: DPL Energy, LLC; The Dayton Power and Light Company.

Description: The Dayton Power and Light Co *et al.* submits Substitute First Revised Sheet 1 *et al.* to FERC Electric Tariff, Second Revised Volume 6, in compliance with FERC's 6/30/08 order.

Filed Date: 06/06/2008.

Accession Number: 20080611–0122.

Comment Date: 5 p.m. Eastern Time on Friday, June 27, 2008.

Docket Numbers: ER98–4159–013; ER04–268–010; ER06–399–007; ER06–398–007.

Applicants: Duquesne Light Company; Duquesne Power, LLC; Duquesne Keystone, LLC; Duquesne Conemaugh, LLC.

Description: Duquesne Companies submits a notice of non-material change in status.

Filed Date: 06/09/2008.

Accession Number: 20080611–0111.

Comment Date: 5 p.m. Eastern Time on Monday, June 30, 2008.

Docket Numbers: ER01–1266–009; ER01–1267–012; ER01–1268–010;

ER01–1269–009; ER01–1270–012; ER01–1271–010; ER01–1273–010; ER01–1277–009; ER01–1278–012; ER02–1213–008.

Applicants: Mirant Bowline, LLC; Mirant California, LLC; Mirant Canal, LLC; Mirant Chalk Point, LLC; Mirant Delta, LLC; Mirant Kendall, LLC; Mirant Mid-Atlantic, LLC; Mirant Potomac River, LLC; Mirant Potrero, LLC; Mirant Energy Trading, LLC.

Description: Mirant Entities submits a notice of non-material change in status.

Filed Date: 06/06/2008.

Accession Number: 20080611–0119.

Comment Date: 5 p.m. Eastern Time on Friday, June 27, 2008.

Docket Numbers: ER01–2830–003.

Applicants: Roseburg Forest Products Company.

Description: Application of Roseburg Forest Products for Finding as a Category 1 Seller of Davison Van Cleve, PC.

Filed Date: 06/09/2008.

Accession Number: 20080609–5124.

Comment Date: 5 p.m. Eastern Time on Monday, June 30, 2008.

Docket Numbers: ER01–390–005; ER99–3450–008; ER99–2769–009; ER00–2706–006; ER01–2760–005.

Applicants: Chandler Wind Partners, LLC; Foote Creek II, LLC; Foote Creek III, LLC; Foote Creek IV, LLC; Ridge Crest Wind Partners, LLC.

Description: Chandler Wind Partners, LLC *et al.* submits a notice of non-material change in status.

Filed Date: 06/09/2008.

Accession Number: 20080611–0120.

Comment Date: 5 p.m. Eastern Time on Monday, June 30, 2008.

Docket Numbers: ER02–2546–010; ER02–2080–009; ER99–3248–012; ER99–1213–010.

Applicants: CED Rock Springs, Inc.; Consolidated Edison Energy MA, Inc.; Lakewood Cogeneration, L.P.; Ocean Peaking Power, L.L.C.

Description: The Project Companies submits a notice of non-material change in status.

Filed Date: 06/09/2008.

Accession Number: 20080611–0109.

Comment Date: 5 p.m. Eastern Time on Monday, June 30, 2008.

Docket Numbers: ER04–208–005; ER06–1228–003; ER07–589–002.

Applicants: Citigroup Energy Inc.; Citigroup Energy Canada ULC; Phibro LLC.

Description: Citigroup Energy Inc, Citigroup Energy Canada ULC, and Phibro, LLC submits notice of non-material change in status in compliance with the reporting requirements of section 35.42 of the FERC's Regulations.

Filed Date: 06/09/2008.

Accession Number: 20080611–0110.

Comment Date: 5 p.m. Eastern Time on Monday, June 30, 2008.

Docket Numbers: ER08–54–002.

Applicants: ISO New England Inc.

Description: ISO New England Inc *et al.* submits proposed revisions to the ISO's Transmission, Markets and Services Tariff to comply with FERC's Order issued on 5/7/08.

Filed Date: 06/10/2008.

Accession Number: 20080610–0272.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 01, 2008.

Docket Numbers: ER08–654–002.

Applicants: California Independent System Operator Corporation.

Description: The California Independent System Operator *et al.* submits their instant filing in compliance with FERC's Order issued on 5/9/08.

Filed Date: 06/09/2008.

Accession Number: 20080611–0123.

Comment Date: 5 p.m. Eastern Time on Monday, June 30, 2008.

Docket Numbers: ER08–864–001.

Applicants: Montgomery L' Energia Power Partners LP.

Description: Montgomery L'Energia Power Partners, LP submits an amendment to its 4/23/08 application for authorization to sell energy, capacity, and ancillary services etc.

Filed Date: 06/09/2008.

Accession Number: 20080611–0112.

Comment Date: 5 p.m. Eastern Time on Monday, June 30, 2008.

Docket Numbers: ER08–1080–000.

Applicants: Progress Energy, Inc.

Description: Carolina Power & Light Company *et al.* submit modifications to the Joint Open Access Transmission Tariff.

Filed Date: 06/06/2008.

Accession Number: 20080610–0206.

Comment Date: 5 p.m. Eastern Time on Friday, June 27, 2008.

Docket Numbers: ER08–1081–000.

Applicants: The American Electric Power Service Corp.

Description: American Electric Power Service Corporation submits a second revision to the Interconnection and Local Delivery Service Agreement 1430 between City of Wapakoneta and AEP Operating Companies.

Filed Date: 06/06/2008.

Accession Number: 20080610–0207.

Comment Date: 5 p.m. Eastern Time on Friday, June 27, 2008.

Docket Numbers: ER08–1082–000.

Applicants: E.ON U.S. LLC.

Description: E.OM US, LLC *et al.* submits an unexecuted network integration transmission service agreement and an unexecuted network operating agreement for network service to Big Rivers Electric Corp.

Filed Date: 06/06/2008.

Accession Number: 20080610–0209.

Comment Date: 5 p.m. Eastern Time on Friday, June 27, 2008.

Docket Numbers: ER08–1083–000.

Applicants: Southwestern Public Service Company.

Description: Southwestern Public Service Company submits an informational filing showing the calculation of formula rates for partial-requirements services to be provided by SPS to Golden Spread Electric Cooperative, Inc. for the formula etc.

Filed Date: 06/06/2008.

Accession Number: 20080610–0208.

Comment Date: 5 p.m. Eastern Time on Friday, June 27, 2008.

Docket Numbers: ER08–1087–000.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits a revised interconnection service agreement with North Allegheny Wind, LLC *et al.* designated as Original Service Agreement 1848.

Filed Date: 06/06/2008.

Accession Number: 20080610–0212.

Comment Date: 5 p.m. Eastern Time on Friday, June 27, 2008.

Docket Numbers: ER08–1091–000.

Applicants: West Valley Leasing Company, LLC.

Description: West Valley Leasing Company, LLC submits Notice of Cancellation of its market-based rate tariff, FERC Electric Tariff, Original Volume 1, to become effective 6/10/08.

Filed Date: 06/09/2008.

Accession Number: 20080610–0216.

Comment Date: 5 p.m. Eastern Time on Monday, June 30, 2008.

Docket Numbers: ER08–1092–000.

Applicants: The American Electric Power Service Corp.

Description: AEP Operating Companies submits a second revision to the Interconnection and Local Delivery Service agreement 1421 with Village of Cygnet.

Filed Date: 06/09/2008.

Accession Number: 20080610–0218.

Comment Date: 5 p.m. Eastern Time on Monday, June 30, 2008.

Docket Numbers: ER08–1093–000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Co. submits notices of termination for two Special Facilities Agreements with City and County of San Francisco.

Filed Date: 06/09/2008.

Accession Number: 20080610–0217.

Comment Date: 5 p.m. Eastern Time on Monday, June 30, 2008.

Docket Numbers: ER08–1094–000; ER08–1095–000; ER08–1096–000; ER08–1097–000.

Applicants: NAEA Energy Massachusetts, LLC; NAEA Ocean Peaking Power, LLC; NAEA Lakewood Cogeneration, LP; NAEA Rock Springs, LLC.

Description: Consolidated Edison Energy Massachusetts, Inc *et al.* submits notices of succession.

Filed Date: 06/09/2008.

Accession Number: 20080611–0117.

Comment Date: 5 p.m. Eastern Time on Monday, June 30, 2008.

Docket Numbers: ER08–1098–000; ER08–1099–000; ER08–1100–000.

Applicants: National Grid Generation, LLC; National Grid-Port Jefferson Energy Cent; National Grid-Glenwood Energy Center, LL

Description: National Grid USA submits a Notices of Succession for KeySpan Generation LLC *et al.*

Filed Date: 06/09/2008.

Accession Number: 20080611–0116.

Comment Date: 5 p.m. Eastern Time on Monday, June 30, 2008.

Docket Numbers: ER08–1101–000.

Applicants: PacifiCorp.

Description: PacifiCorp submits a Notice of Cancellation of Service Agreement 11, to its FERC Electric Tariff, First Revised Volume 6, to become effective 7/1/08.

Filed Date: 06/09/2008.

Accession Number: 20080611–0115.

Comment Date: 5 p.m. Eastern Time on Monday, June 30, 2008.

Docket Numbers: ER08–1102–000.

Applicants: PacifiCorp.

Description: PacifiCorp submits a Notice of Cancellation of Service Agreement 2, to its FERC Electric Tariff, First Revised Volume 6.

Filed Date: 06/09/2008.

Accession Number: 20080611–0114.

Comment Date: 5 p.m. Eastern Time on Monday, June 30, 2008.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES08–53–000.

Applicants: Indianapolis Power & Light Company.

Description: Application of Indianapolis Power & Light Company under FPA Section 204 for an Order Authorizing the Issuance of Short-Term Debt Instruments.

Filed Date: 06/10/2008.

Accession Number: 20080610–5036.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 01, 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 dockets(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. E8–13903 Filed 6–18–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL08–2–000]

Obtaining Guidance on Regulatory Requirements; Notice of Compliance Help Desk Implementation

June 12, 2008.

On May 15, 2008, the Commission issued an order in this proceeding directing the implementation of a compliance help desk on the Commission's Web site to provide a mechanism to submit questions regarding compliance with the statutes, rules, regulations and tariffs administered by the Commission. The compliance help desk is operational and can be found at *http://www.ferc.gov/contact-us/compliance-help-desk.asp.* A link to the compliance help desk can also be found on the home page of the Commission's Web site, *http://www.ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. E8–13811 Filed 6–18–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER04–230–035]

New York Independent System Operator, Inc.; Notice of Filing

June 12, 2008.

Take notice that on June 9, 2008, the New York Independent System Operator, Inc. tendered for filing tariff revisions in response to Commission's May 23, 2008 Order.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and

interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 19, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–13808 Filed 6–18–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RC08–6–000]

Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval and Enforcement of Electric Reliability Standards; Notice of Availability of Filing

June 12, 2008.

Take notice that, on May 27, 2008, the North American Electric Reliability Corporation (NERC) filed with the Commission its 2008 Summer Reliability Assessment report.

Section 39.11 of the Commission's regulations provides that the Electric Reliability Organization (ERO) shall conduct assessments of reliability and the adequacy of the Bulk-Power System in North America and report its findings to the Commission, and, in the case of its report on adequacy, also report to the Secretary of Energy, each Regional Entity, and each Regional Advisory Body.

This assessment is filed under Docket No. RC08–6–000 and is accessible on-line at *http://www.ferc.gov,* using the ''e-Library'' link and is available for review in the Commission's Public Reference Room. 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–13807 Filed 6–18–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–405–000]

Questar Pipeline Company; Notice of Request Under Blanket Authorization

June 12, 2008.

Take notice that on May 22, 2008, Questar Pipeline Company (Questar), 180 East 100 South, P.O. Box 45360, Salt Lake City, Utah 84145–0360, filed in Docket No. CP08–405–000 a prior notice request pursuant to sections 157.205, 157.208 and 157.213 of the Commission's regulations under the Natural Gas Act (NGA) and Questar's blanket certificate issued in Docket No. CP82–491–000 for authorization to construct, own and operate two new reciprocating natural-gas-fired compressors, two parallel suction and discharge pipielines, interconnect piping, metering, and ancillary facilities located at Greasewood Compressor Station, adjacent to Questar's existing Maine Line (ML) 68 in Rio Blanco County, Colorado, as more fully set forth in the application, which is on file with the Commission and open to public inspection. Questar states that the estimated cost to construct the facilities is approximately $20,500,000. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to L. Bradley Burton, Manager, Federal Regulatory Affairs, Questar Pipeline Company, P.O. Box 45360, Salt Lake City, UT 84145–0360, or telephone (801) 324–2459 (e-mail *brad.burton@questar.com*).

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–13812 Filed 6–18–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2008–0150; FRL–8683–1]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Establishing No-Discharge Zones Under Clean Water Act Section 312 (Renewal), EPA ICR Number 1791.05, OMB Control Number 2040–0187

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 21, 2008.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OW–2008–0150, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *ow-docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Office of Water Docket, mail code 28221T, 1200 Pennsylvania Ave., NW., Washington,

DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Chris Laabs, Office of Water, 4504T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* 202–566–1223; *fax number:* 202–566–1546; *e-mail* address: *laabs.chris@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 25, 2008 (73 *FR* 15752), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OW–2008–0150, which is available for viewing at the *http://www.regulations.gov*, or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Establishing No-Discharge Zones Under Clean Water Act Section 312 (Renewal).

ICR numbers: EPA ICR No. 1791.05, OMB Control No. 2040–0187.

ICR Status: This ICR is scheduled to expire on June 30, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: (A) Sewage No-discharge Zones: The need for EPA to obtain information for the establishment of no-discharge zones (NDZs) for vessel sewage in State waters stems from CWA Section 312(f)(3), (f)(4)(A), and (f)(4)(B), and subsequent regulations at 40 CFR 140.4(a–c). NDZs are established to provide State and local governments with additional protection of waters from treated or untreated vessel sewage. There are 3 ways in which NDZs for vessel sewage can be established. This ICR discusses the information requirements associated with the establishment of NDZs for vessel sewage. The responses to this collection of information are required to obtain the benefit of a sewage NDZ (see 33 U.S.C. 1322). The information collection activities discussed in this ICR do not require the submission of any confidential information. (B) UNDS No-discharge Zones: Under section 312(n) of the Clean Water Act (''Uniform National Discharge Standards for Vessels of the Armed Forces'' or ''UNDS'') NDZs for discharges from Armed Forces vessels may be established by either State prohibition or EPA prohibition following the procedures in 40 CFR Part 1700. UNDS also provides that the Governor of any State may petition EPA and the Secretary of Defense to review any determination or standard promulgated under the UNDS program if there is significant new information that could reasonably result in a change to the determination or standard. This ICR discusses the information that will be required from a State if it decides to establish a NDZ by State prohibition or apply for a NDZ by EPA prohibition, and the information that will be required from a State if it decides to submit a petition for review. The responses to this collection of information are required to obtain the benefit of an UNDS NDZ or a review of an UNDS determination or standard (see 33 U.S.C. 1322(n)). The information collection activities discussed in this ICR do not require the submission of any confidential information.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 127 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are state, local, and tribal governments.

Estimated Number of Respondents: 16.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 2,207 hours.

Estimated Total Annual Cost: $100,820 includes $2,300 annualized capital or O&M costs and $98,520 labor costs.

Changes in the Estimates: The total hourly estimated burden currently identified in the OMB Inventory of Approved ICR Burdens remains the same; however, the current ICR presents an increase in the total cost due to normal cost inflation.

Dated: June 11, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–13889 Filed 6–18–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2007–0065; FRL–8683–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Metal Coil Surface Coating Plants (Renewal), EPA ICR Number 1957.05, OMB Control Number 2060–0487

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before July 21, 2008.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2007–0065, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 9, 2007 (72 *FR* 10735), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2007–0065, which is available for public viewing online at *http://www.regulations.gov,* in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Metal Coil Surface Coating Plants (Renewal).

ICR Numbers: EPA ICR Number 1957.05, OMB Control Number 2060–0487

ICR Status: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Metal Coil Surface Coating Plants were proposed (65 *FR* 44616) on July 18, 2000, promulgated (67 *FR* 39812) on June 10, 2002, and amended (68 *FR* 12592) on March 17, 2003. These standards apply to each facility operating a coil coating line and that is a major source of hazardous air pollutants (HAPs). This coating line coats metal coil of thicknesses less than, greater than, or equal to 0.15 millimeters (0.006 inches) thick.

Abstract: Owners or operators must submit notification reports upon construction or reconstruction of any metal coil surface coating plant. Semiannual reports for periods of operation during which the emission limitation has exceeded, or reports certifying that no exceedances have occurred, also are required. Owners and operators must submit notification reports upon the construction, reconstruction, or modification of any metal coil surface coating plant. Also, required is a one-time-only initial notification for new and reconstructed sources. Owners or operators of metal coil surface coating plants subject to the rule must maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 C*FR* part 63, subpart SSSS, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for EPA's regulations listed in 40 C*FR* part 9 and 48 C*FR* chapter 15, are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information estimated to average 119 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose and provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information. All existing ways will have to adjust to comply with any previously applicable instructions and requirements that have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Metal coil surface coating plants.

Estimated Number of Respondents: 89.

Frequency of Response: Weekly, annually, semiannually, initially and occasionally.

Estimated Total Annual Hour Burden: 19,901.

Estimated Total Annual Cost: $1,588,365 for labor costs, inclusive, plus O&M costs of $3,648 and $00.00 for annualized capital costs.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden. It should be noted that the previous ICR rounded the burden cost down to the nearest one

thousand. In this ICR, the exact cost figure is reported which results in an apparent increase in the cost when, in fact, no increase has occurred.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR was used in this ICR, and there is no change in burden to industry.

Dated: June 5, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–13891 Filed 6–18–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8582–4]

National Advisory Council for Environmental Policy and Technology; Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Charter Renewal.

Notice is hereby given that the Environmental Protection Agency (EPA) has determined that, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the National Advisory Council for Environmental Policy and Technology (NACEPT) is a necessary committee which is in the public interest. Accordingly, NACEPT will be renewed for an additional two-year period. The purpose of NACEPT is to provide advice and recommendations to the Administrator of EPA on a broad range of environmental policy, technology and management issues. Inquiries may be directed to Sonia Altieri, U.S. EPA, (Mail Code 1601M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone (202) 564–0243, or *altieri.sonia@epa.gov.*

Dated: May 28, 2008.

Timothy Sherer,

Acting Director, Office of Cooperative Environmental Management.

[FR Doc. E8–13763 Filed 6–18–08; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget, Comments Requested

June 11, 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 July 17, 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: 3060–0298.

Title: Part 61, Tariffs (Other than Tariff Review Plan).

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents and Responses: 580 respondents; 1,160 responses.

Estimated Time per Response: 50 hours.

Obligation to Respond: Required to obtain or retain benefits.

Frequency of Response: On occasion and annual reporting requirements.

Total Annual Burden: 58,000 hours.

Annual Cost Burden: $899,000.

Privacy Act Impact Assessment: No impacts.

Nature of 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 47 CFR Section 0.459 of the Commission's rules.

Needs and Uses: Sections 201, 202, 203, 204 and 205 of the Communications Act of 1934, (''Act'') as amended, 47 U.S.C. 201, 202, 203, 204 and 205, require that common carriers establish just and reasonable charges, practices and regulations must be filed with the Commission which is required to determine whether such schedules are just, reasonable and not unduly discriminatory.

Part 61 of the Commission's Rules, 47 CFR Part 61, establishes the procedures for filing tariffs which contain the charges, practices and regulations of the

common carriers, supporting economic data and other related documents. The supporting data must also conform to other parts of the Commission's Rules such as Parts 36 and 69, 47 CFR Parts 36 and 69. Part 61 prescribes the framework for the initial establishment of and subsequent revisions to tariffs. Tariffs that do not conform to Part 61 may be required to post their schedules or rates and regulations, 47 CFR Section 61.72.

On August 31, 2007, the Commission released the Section 272(f)(1) Sunset Order, which found the BOCs to be nondominant in the provision of in-region, interstate and international, long distances services, whether they provide these services directly or through affiliates that are neither section 272 nor rule 64.1903 affiliates. Accordingly, AT&T, Verizon and Qwest are now barred from filing tariffs for in-region, interstate and international, long distance services pursuant to section 203 of the Act and sections 61.31–61.38 and 61.43 of the Commission's Rules, 47 CFR Sections 61.31–61.38 and 61.43.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–13627 Filed 6–16–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

June 13, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to (PRA) of 1995 (PRA), Pub. L. No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Subject to the PRA, no person shall be subject to any penalty for failing to comply with a collection of information that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before August 18, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Interested parties may submit all PRA comments by e-mail or U.S. post mail. To submit your comments by e-mail, send them to *PRA@fcc.gov* and/or *Cathy.Williams@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Cathy Williams at (202) 418–2918 or send an e-mail to *PRA@fcc.gov* and/or *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1115.

Title: DTV Consumer Education Initiative; Sections 15.124, 27.20, 54.418, 73.674, and 76.1630.

Form Number: FCC Form 388.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions, State, local or tribal governments.

Number of Respondents/Responses: 11,022 respondents; 70,026 responses.

Estimated Time per Response: 0.50 hours–85 hours.

Frequency of Response: On occasion reporting requirement; Monthly reporting requirement; Quarterly reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain benefits—Statutory authority for this collection of information is contained in Sections 4(i), 303(r), 335, and 336 of the Communications Act of 1934, as amended, 47 U.S.C. Section 154(I), 303(r), 335, and 336.

Total Annual Burden: 155,646 hours.

Total Annual Cost: None.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission adopted on April 23, 2008, an Order of Reconsideration, In the Matter of DTV Consumer Education Initiative, MB Docket 07–148, FCC 08–119. In this Order, we modify our requirements regarding the timing, scope, and content of manufacturer notices and the method of delivery of eligible telecommunications carriers (ETC) notices, and clarify other manufacturer requirements. The revised requirements are as follows:

a. Consumer Electronics Manufacturer Notices (47 CFR 15.124).

The ''responsible party,'' as defined in the Commission's rules, has to include a notice about the digital television (DTV) transition on television receivers and related devices manufactured between May 30, 2008 and March 31, 2009. The notices themselves must include the Commission's contact information (rather than the manufacturer's), convey information about the DTV transition, and must be included with covered devices.

b. Eligible Telecommunications Carriers (ETCs) Federal Universal Service Low-Income Program Participant Notices (47 CFR 54.418).

ETCs that receive federal universal service funds shall provide their Lifeline or Link-up customers (low-income customers) with notices about the transition for over-the-air full power broadcasting from analog to digital service (the ''DTV Transition'') in monthly bills, bill notices, or as a monthly stand-alone mailer (e.g., postcard, brochure), beginning May 30, 2008 through March 31, 2009.

These information collection requirements are also a part of this information collection:

(1) Broadcaster Education and Reporting (47 CFR 73.674).

(a) On-Air Education. Broadcasters must provide on-air DTV Transition consumer education information (e.g., via Public Service Announcements (PSAs), information crawls, snipes or tickers) to their viewers. Broadcasters must comply with one of three alternative sets of rules as provided in the Report and Order.

(b) DTV Consumer Education Quarterly Activity Report, FCC Form 388. Broadcasters must electronically file a report about its DTV Transition consumer education efforts to the Commission on a quarterly basis. Broadcasters must begin filing these quarterly reports no later than April 10, 2008. In addition, if the broadcaster has a public Web site, they must post these reports on that Web site.

(2) Multichannel Video Programming Distributor (MVPD) Customer Bill Notices (47 CFR 76.1630). MVPDs must provide monthly notices about the DTV transition in their customer billing statements. They include (but are not limited to), for example: Cable

operators, direct broadcast satellite (DBS) carriers, open video system operators, and private cable operators.

(3) DTV.Gov Partner Consumer Education Reporting. DTV.gov Transition Partners must report their consumer education efforts, as a condition of continuing Partner status. They must begin filing these quarterly reports no later than April 10, 2008.

(4) 700 MHz Wireless Service Licensee/Permitees Consumer Education Reporting (47 CFR 27.20). Winners of the 700 MHz spectrum auction must report their consumer education efforts to the Commission on a quarterly basis. These parties must file the first by the tenth day of the first calendar quarter following the initial grant of the license authorization that the entity holds.

Also, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–13740 Filed 6–18–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

June 12, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501—3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments August 18, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), (202) 395–5887, or via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission (FCC). To submit your comments by e-mail send them to: *PRA@fcc.gov.*

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review'', (3) click 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 title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information, send an email to Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1118.

Title: DTV Retailer Site Visit Program.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,450 respondents; 1,450 responses.

Estimated Time Per Response: .25 hours.

Frequency of Response: 25 interviews a week for 52 weeks (on occasion reporting requirement).

Obligation To Respond: Voluntary.

Total Annual Burden: 325 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension (no change in reporting requirements) after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance.

The Commission requested and obtained emergency approval for this information collection on June 11, 2008 from the Office of Management and Budget. The emergency OMB approval ends in six months, therefore, the Commission is now seeking the full three year clearance from them.

On February 19, 2008, the Commission adopted a Report and Order in MB Docket No. 07–148, FCC 08–56, concerning the DTV Consumer Education Initiative. The Report and Order noted that many retailers have agreed to participate in the National Telecommunications and Information Agency (NTIA) digital-to-analog converter box coupon program. Those retailers claim to have undertaken significant employee training initiatives regarding the converter box program and the digital television transition. Among other things, the Report and Order offered the Commission's assistance to the NTIA to assess those training efforts. In this regard, the Commission's Enforcement Bureau field agents will regularly visit participating retailer stores across the country. They will conduct on-the-spot interviews with retail managers to ascertain whether retailers who participate in the converter box coupon program are fulfilling their commitment to engage in extensive employee training and consumer outreach education. The interview will consist of a series of questions to assess employee training and consumer education efforts and whether the retailers' objectives are being met at stores. The interview is not part of an official FCC investigation and no penalty would result from the interview. The information collected will be forwarded to FCC Headquarters to be consolidated into an aggregated report that will then be forwarded to NTIA for its review and appropriate action. This collection of information is needed to ensure that the American public is adequately prepared for the digital television transition.

While the Commission will be the collection point for the information with regard to the retailers, the information collected will be passed on to NTIA for review and appropriate action. As retailers provide direct contact with customers and provide customers with

information regarding the capabilities of the equipment they are purchasing, they will play a central role in educating the public on the DTV transition.

The government has a substantial interest in ensuring that the public is fully informed about the DTV transition and the steps necessary to continue receiving over-the-air broadcast signals after the transition. The interviews are another step in ensuring that the American public is adequately prepared for the digital television transition.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–13896 Filed 6–18–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 08–1176]

Notice of Debarment; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau debars Mr. Thomas J. Kennedy III from the schools and libraries universal service support mechanism (or ''E-Rate Program'') for a period of three years based on your conviction of mail fraud in connection with your participation in the program. The Bureau takes this action in order to protect the E-Rate Program from waste, fraud and abuse.

DATES: Debarment commences on the date Mr. Thomas J. Kennedy III receives the debarment letter or June 19, 2008, whichever date come first, for a period of threes years.

FOR FURTHER INFORMATION CONTACT: Diana Lee, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554. Diana Lee may be contacted by phone at (202) 418–0843 or by e-mail at *diana.lee@fcc.gov*. If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov*.

SUPPLEMENTARY INFORMATION: The Bureau debarred Mr. Thomas J. Kennedy III from the schools and libraries universal service support mechanism for a period of three years pursuant to 47 CFR 54.8 and 47 CFR 0.111(a). Attached is the debarment letter, DA 08–1176, which was mailed to Mr. Thomas J. Kennedy III and released on May 16, 2008. The complete text of the notice of debarment is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. In addition, the complete text is available on the FCC's Web site at *http://www.fcc.gov*. The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY–B420, Washington, DC 20554, telephone (202) 488–5300 or (800) 378–3160, facsimile (202) 488–5563, or via e-mail *http://www.bcpiweb.com*.

Federal Communications Commission.

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

The debarment letter follows:

May 16, 2008.

DA 08–1176.

Via Certified Mail; Return Receipt Requested and Facsimile (203–977–7301).

Mr. Thomas J. Kennedy III, c/o Stanley A. Twardy, Jr., Day Pitney LLP, One Canterbury Green, Stamford, CT 06901–2047.

Re: Notice of Debarment, File No. EB–08–IH–0285

Dear Mr. Kennedy: Pursuant to section 54.8 of the rules of the Federal Communications Commission (the ''Commission''), by this Notice of Debarment you are debarred from the schools and libraries universal service support mechanism (or ''E-Rate program'') for a period of three years.[1]

On February 6, 2008, the Enforcement Bureau (the ''Bureau'') sent you a Notice of Suspension and Initiation of Debarment Proceedings (the ''Notice of Suspension'').[2] That Notice of Suspension was published in the **Federal Register** on March 10, 2008.[3] The Notice of Suspension suspended you from the schools and libraries universal service support mechanism and described the basis for initiation of debarment proceedings against you, the applicable debarment procedures, and the effect of debarment.[4]

Pursuant to the Commission's rules, any opposition to your suspension or its scope or to your proposed debarment or its scope had to be filed with the Commission no later than thirty (30) calendar days from the earlier date of your receipt of the Notice of Suspension or publication of the Notice of Suspension in the **Federal Register**.[5] The Commission did not receive any such opposition.

As discussed in the Notice of Suspension, you pled guilty to and were convicted of mail fraud, in violation of 18 U.S.C. 1341, for your participation in the E-Rate program.[6] You admitted to participating in a scheme to defraud the E-Rate program by, among other things, taking actions with other co-schemers to ensure that costs for services on E-rate projects would be billed at inflated rates, which in turn led to inflated invoices being submitted to the Universal Service Administrative Company for reimbursement from the E-rate program.[7] Such conduct constitutes the basis for your debarment, and your conviction falls within the categories of causes for debarment under section 54.8(c) of the Commission's rules.[8] For the foregoing reasons, you are hereby debarred for a period of three years from the debarment date, *i.e.*, the earlier date of your receipt of this Notice of Debarment or its publication date in the **Federal Register**.[9] Debarment excludes you, for the debarment period, from activities ''associated with or related to the schools and libraries support mechanism,'' including ''the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.''[10]

Sincerely,

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail).
Anthony E. Kaplan, Esq., Supervisory Assistant United States Attorney.
Calvin B. Kurimai, Esq., Assistant United States Attorney.

February 6, 2008.

DA 08–300.

Via Certified Mail; Return Receipt Requested and Facsimile (203–977–7301).

Mr. Thomas J. Kennedy III, c/o Stanley A. Twardy, Jr., Day Pitney LLP, One Canterbury Green, Stamford, CT 06901–2047, E-mail: *satwardy@daypitney.com*.

[1] *See* 47 CFR 0.111(a), 54.8.

[2] Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Mr. Thomas J. Kennedy III, Notice of Suspension and Initiation of Debarment Proceedings, 23 FCC Rcd 1669 (Inv. & Hearings Div., Enf. Bur. 2008) (Attachment 1).

[3] 73 FR 12733 (March 10, 2008).

[4] *See* Notice of Suspension, 23 FCC Rcd at 1670–72.

[5] *See* 47 CFR 54.8 (e)(3) and (4). That date occurred no later than April 9, 2008. *See supra* note 3.

[6] *See* Notice of Suspension, 23 FCC Rcd at 1670.

[7] *See id.* In addition to Richard E. Brown, the Bureau debarred Keith J. Madeiros, both former SBC account managers participating in the scheme, from the E-Rate program. *See* Letter from Hillary S. DeNigro to Keith J. Madeiros, Notice of Debarment, DA 08–1177 (Enf. Bur., Investigations & Hearings Div., rel. May 16, 2008).

[8] *Id.* at 1670; 47 CFR 54.8(c).

[9] *See* Notice of Suspension, 23 FCC Rcd at 1672.

[10] *See* 47 C.F.R. 54.8(a)(1), 54.8(a)(5), 54.8(d); Notice of Suspension, 23 FCC Rcd at 1672.

Re: Notice of Suspension and Initiation of Debarment Proceedings

File No. EB–08–IH–0285

Dear Mr. Kennedy: The Federal Communications Commission (''FCC'' or ''Commission'') has received notice of your conviction for mail fraud in violation of 18 U.S.C. 1341 in connection with your participation in the schools and libraries universal service support mechanism (''E-Rate program'').[11] Consequently, pursuant to 47 CFR 54.8, this letter constitutes official notice of your suspension from the E-Rate program. In addition, the Enforcement Bureau (''Bureau'') hereby notifies you that we are commencing debarment proceedings against you.[12]

I. Notice of Suspension

The Commission has established procedures to prevent persons who have ''defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism'' from receiving the benefits associated with that program.[13] You pled guilty to mail fraud for activities in connection with your participation in the E-Rate program involving telecommunications upgrade projects in four Connecticut school districts.[14] While employed as an account manager for a company that had a partnership arrangement with Southwestern Bell Communications (''SBC''), you participated in a scheme to defraud SBC and the E-Rate program.[15] You and three SBC employees, including Richard E. Brown and Keith J. Madeiros, decided that engineers would be hired for E-Rate funded projects and that the cost of these engineering services would be billed at inflated rates first to SBC and later to a SBC subcontractor.[16] SBC paid the invoices and then submitted those invoices to USAC seeking excessive reimbursement from the E-rate funds.[17] The invoices were inflated by more than $500,000.[18] You admitted that payments for the inflated amount were split primarily among you, Mr. Brown, and Mr. Madeiros and that you received $249,525.[19]

Pursuant to section 54.8(a)(4) of the Commission's rules,[20] your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.[21] Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the **Federal Register**.[22]

Suspension is immediate pending the Bureau's final debarment determination. In accordance with the Commission's debarment rules, you may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Your request must be received within 30 days after you receive this letter or after notice is published in the **Federal Register**, whichever comes first.[23] Such requests, however, will not ordinarily be granted.[24] The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.[25] Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.[26]

II. Initiation of Debarment Proceedings

Your guilty plea to and conviction of criminal conduct in connection with the E-Rate program, in addition to serving as a basis for immediate suspension from the program, also serves as a basis for the initiation of debarment proceedings against you. Your conviction falls within the categories of causes for debarment defined in section 54.8(c) of the Commission's rules.[27] Therefore, pursuant to section 54.8(a)(4) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.

As with your suspension, you may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of the earlier of the receipt of this letter or of publication in the **Federal Register**.[28] Absent extraordinary circumstances, the Bureau will debar you.[29] Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.[30] If the Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or publication of the decision in the **Federal Register**.[31] If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for three years from the date of debarment.[32] The Bureau may, if necessary to protect the public interest, extend the debarment period.[33]

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[11] Any further reference in this letter to ''your conviction'' refers to your February 13, 2007 guilty plea and subsequent conviction of mail fraud. *United States* v. *Thomas J. Kennedy III,* Criminal Docket No. 3:07-CR–186 (RNC), Plea Agreement (D. Conn. filed Aug. 24, 2007 and entered Aug. 27, 2007) (''*Kennedy Plea Agreement*''), Judgment (D. Conn. filed and entered Jan. 24, 2008) (''*Kennedy Judgment*'').

[12] 47 CFR 54.8; 47 CFR 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the schools and libraries universal service support mechanism in 2003. *See Schools and Libraries Universal Service Support Mechanism,* Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (''*Second Report and Order*'') (adopting section 54.521 to suspend and debar parties from the E-rate program). In 2007, the Commission extended the debarment rules to apply to all of the Federal universal service support mechanisms. *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.,* Report and Order, 22 FCC Rcd 16372, 16410–12 (2007) (*Program Management Order*) (renumbering section 54.521 of the universal service debarment rules as section 54.8 and amending subsections (a)(1), (5), (c), (d), (e)(2)(i), (3), (e)(4), and (g)).

[13] *See Second Report and Order,* 18 FCC Rcd at 9225, para. 66; *Program Management Order,* 22 FCC Rcd at 16387, para. 32. The Commission's debarment rules define a ''person'' as ''[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however, organized.'' 47 CFR 54.8(a)(6).

[14] *See Kennedy Plea Agreement* at 1; *United States* v. *Thomas J. Kennedy III,* Criminal Docket No. 3:07–CR–186 (RNC), Information, paras. 7–28 (D. Conn. filed Aug. 24, 2007 and entered Aug. 27, 2007) (''*Kennedy Information*''); *http://www.usdoj.gov/usao/ct/Press2008/20080123-5.html* (last accessed Jan. 25, 2008) (''*DOJ January 23, 2008 Press Release*'').

[15] *See Kennedy Information* at paras. 13–15; *DOJ January 23, 2008 Press Release* at 1.

[16] *See Kennedy Information* at paras. 15–28; *DOJ January 23, 2008 Press Release* at 1. The Bureau has debarred Richard E. Brown from the E-Rate program. *See* Letter from Hillary S. DeNigro to Richard E. Brown, Notice of Debarment, 22 FCC Rcd 20569 (Enf. Bur., Investigations & Hearings Div., rel. Nov. 27, 2007); 72 FR 73821 (Dec. 28, 2007). The Bureau has suspended Keith J. Madeiros from the E-Rate program and initiated debarment proceedings against him. *See* Letter from Hillary S. DeNigro to Keith J. Madeiros, Notice of Suspension and Initiation of Debarment Proceedings, DA 08–129 (Enf. Bur., Investigations & Hearings Div., rel. Jan. 18, 2008).

[17] *See Kennedy Information* at paras. 21, 26; *DOJ January 23, 2008 Press Release* at 1.

[18] *See id.*

[19] *See id.*

[20] 47 CFR 54.8(a)(4). *See Second Report and Order,* 18 FCC Rcd at 9225–9227, paras. 67–74.

[21] 47 CFR 54.8(a)(1), (d).

[22] *Second Report and Order,* 18 FCC Rcd at 9226, para. 69; 47 CFR 54.8(e)(1).

[23] 47 CFR 54.8(e)(4).

[24] *Id.*

[25] 47 CFR 54.8(e)(5).

[26] *See Second Report and Order,* 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5), 54.8(f).

[27] ''Causes for suspension and debarment are the conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism.'' 47 CFR 54.8(c). Such activities ''include the receipt of funds or discounted services through [the Federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the Federal universal service] support mechanisms.'' 47 CFR 54.8(a)(1).

[28] *See Second Report and Order,* 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(3).

[29] *Second Report and Order,* 18 FCC Rcd at 9227, para. 74.

[30] 30 *See id.*, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

[31] *Id.* The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 CFR 54.8(f).

[32] *Second Report and Order,* 18 FCC Rcd at 9225, para. 67; 47 CFR 54.8(d), 54.8(g).

[33] *Id.*

Please direct any response, if by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002, to the attention of Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail), the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC 20554, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4–C330, Washington, DC 20554. You shall also transmit a copy of the response via e-mail to *diana.lee@fcc.gov* and to *vickie.robinson@fcc.gov.*

If you have any questions, please contact Ms. Lee via mail, by telephone at (202) 418–1420 or by e-mail at *diana.lee@fcc.gov.* If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov.*

Sincerely yours,

Trent B. Harkrader,

Deputy Chief, Investigations and Hearings Division, Enforcement Bureau.

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail).
Anthony E. Kaplan, Esq., Supervisory Assistant United States Attorney.
Calvin B. Kurimai, Esq., Assistant United States Attorney.

[FR Doc. E8–13893 Filed 6–18–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 08–1177]

Notice of Debarment; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau debars Mr. Keith J. Madeiros from the schools and libraries universal service support mechanism (or ''E-Rate Program'') for a period of three years based on your conviction of mail fraud in connection with your participation in the program. The Bureau takes this action in order to protect the E-Rate Program from waste, fraud and abuse.

DATES: Debarment commences on the date Mr. Keith J. Madeiros receives the debarment letter or August 18, 2008, whichever date come first, for a period of three years.

FOR FURTHER INFORMATION CONTACT: Diana Lee, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554. Diana Lee may be contacted by phone at (202) 418–0843 or by e-mail at *diana.lee@fcc.gov*. If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov*.

SUPPLEMENTARY INFORMATION: The Bureau debarred Mr. Keith J. Madeiros from the schools and libraries universal service support mechanism for a period of three years pursuant to 47 CFR 54.8 and 47 CFR 0.111(a). Attached is the debarment letter, DA 08–1177, which was mailed to Mr. Keith J. Madeiros and released on May 16, 2008. The complete text of the notice of debarment is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. In addition, the complete text is available on the FCC's Web site at *http://www.fcc.gov*. The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY–B420, Washington, DC 20554, telephone (202) 488–5300 or (800) 378–3160, facsimile (202) 488–5563, or via e-mail *http://www.bcpiweb.com*.

Federal Communications Commission.

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

The debarment letter follows:

May 16, 2008.

DA 08–1177

Via Certified Mail; Return Receipt Requested and Facsimile (404–872–1622).

Mr. Keith J. Madeiros, c/o Richard R. Brown, Esq., Brown Paindiris & Scott, LLP, 100 Pearl Street, Suite 1100, Hartford, CT 06103. E-Mail: *rbrown@bpslawers.com*.

Re: Notice of Debarment, File No. EB–07–IH–9550

Dear Mr. Madeiros: Pursuant to section 54.8 of the rules of the Federal Communications Commission (the ''Commission''), by this Notice of Debarment you are debarred from the schools and libraries universal service support mechanism (or ''E-Rate program'') for a period of three years.[1]

On January 18, 2008, the Enforcement Bureau (the ''Bureau'') sent you a Notice of Suspension and Initiation of Debarment Proceedings (the ''Notice of Suspension'').[2] That Notice of Suspension was published in the **Federal Register** on April 7, 2008.[3] The Notice of Suspension suspended you from the schools and libraries universal service support mechanism and described the basis for initiation of debarment proceedings against you, the applicable debarment procedures, and the effect of debarment.[4]

Pursuant to the Commission's rules, any opposition to your suspension or its scope or to your proposed debarment or its scope had to be filed with the Commission no later than thirty (30) calendar days from the earlier date of your receipt of the Notice of Suspension or publication of the Notice of Suspension in the **Federal Register**.[5] The Commission did not receive any such opposition.

As discussed in the Notice of Suspension, you pled guilty to and were convicted of mail fraud, in violation of 18 U.S.C. 341, for activities in connection with your participation in the E-Rate program.[6] You admitted to participating in a scheme to defraud the E-Rate program by, among other things, creating a sham company and submitting fictitious invoices totaling $452,203 that were ultimately submitted to the Universal Service Administrative Company for reimbursement from the E-Rate program.[7] Such conduct constitutes the basis for your debarment, and your conviction falls within the categories of causes for debarment under section 54.8(c) of the Commission's rules.[8] For the foregoing reasons, you are hereby debarred for a period of three years from the debarment date, i.e., the earlier date of your receipt of this Notice of Debarment or its publication date in the **Federal Register**.[9] Debarment excludes you, for the debarment period, from activities ''associated with or related to the schools and libraries support mechanism,'' including ''the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.''[10]

[1] *See* 47 CFR 0.111(a), 54.8.

[2] Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Mr. Keith J. Madeiros, Notice of Suspension and Initiation of Debarment Proceedings, 23 FCC Rcd 465 (Inv. & Hearings Div., Enf. Bur. 2008) (Attachment 1).

[3] 73 FR 18797 (April 7, 2008).

[4] *See* Notice of Suspension, 23 FCC Rcd at 466–68.

[5] *See* 47 CFR 54.8(e)(3) and (4). That date occurred no later than May 6, 2008. *See supra* note 3.

[6] *See* Notice of Suspension, 23 FCC Rcd at 466.

[7] *See id.*

[8] *Id.* at 466; 47 CFR 54.8(c).

[9] *See* Notice of Suspension, 23 FCC Rcd at 468.

[10] *See* 47 CFR 54.8(a)(1), 54.8(a)(5), 54.8(d); Notice of Suspension, 23 FCC Rcd at 468.

Sincerely,

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail).
Anthony E. Kaplan, Esq., Supervisory Assistant United States Attorney.
Calvin B. Kurimai, Esq., Assistant United States Attorney.

January 18, 2008.

DA 08–129

Via Certified Mail; Return Receipt Requested and Facsimile (860–522–2490).

Mr. Keith J. Madeiros, c/o Richard R. Brown, Esq., Brown Paindiris & Scott, LLP, 100 Pearl Street, Suite 1100, Hartford, CT 06103, E-Mail: *rbrown@bpslawers.com.*

Re: Notice of Suspension and Initiation of Debarment Proceedings, File No. EB–07–IH–9550

Dear Mr. Madeiros: The Federal Communications Commission (''FCC'' or ''Commission'') has received notice of your conviction for mail fraud in violation of 18 U.S.C. 1341 in connection with your participation in the schools and libraries universal service support mechanism (''E-Rate program'').[11] Consequently, pursuant to 47 CFR 54.8, this letter constitutes official notice of your suspension from the E-Rate program. In addition, the Enforcement Bureau (''Bureau'') hereby notifies you that we are commencing debarment proceedings against you.[12]

I. Notice of Suspension

The Commission has established procedures to prevent persons who have ''defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism'' from receiving the benefits associated with that program.[13] You pled guilty to mail fraud for activities in connection with your participation in the E-Rate program involving telecommunications upgrade projects in four Connecticut school districts.[14] While employed at Southwestern Bell Communications (''SBC''), you and Richard E. Brown, both SBC account managers, recommended subcontractors to perform telecommunications upgrades for the school districts.[15] In addition, you and Mr. Brown reviewed invoices submitted by subcontractors to SBC for payment, which SBC then submitted to the Universal Service Administrative Company (''USAC'') for reimbursement from the E-Rate fund.[16] You admitted to participating in a scheme with Brown and Scott A. Federowicz, a manager of an SBC first-tier subcontractor, to defraud USAC.[17] You and Mr. Brown each created a sham company and submitted fictitious invoices totaling approximately $452,203 to Mr. Federowicz, who approved those invoices for payment on behalf of the SBC subcontractor.[18] The SBC subcontractor, unaware that no work had been performed, in turn billed SBC and SBC ultimately sought from USAC reimbursement for those fictitious expenses from the E-Rate program.[19]

Pursuant to section 54.8(a)(4) of the Commission's rules,[20] your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.[21] Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the **Federal Register**.[22]

Suspension is immediate pending the Bureau's final debarment determination. In accordance with the Commission's debarment rules, you may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Your request must be received within 30 days after you receive this letter or after notice is published in the **Federal Register**, whichever comes first.[23] Such requests, however, will not ordinarily be granted.[24] The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.[25] Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.[26]

II. Initiation of Debarment Proceedings

Your guilty plea to and conviction of criminal conduct in connection with the E-Rate program, in addition to serving as a basis for immediate suspension from the program, also serves as a basis for the initiation of debarment proceedings against you. Your conviction falls within the categories of causes for debarment defined in section 54.8(c) of the Commission's rules.[27] Therefore, pursuant to section 54.8(a)(4) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.

As with your suspension, you may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of the earlier of the receipt of this letter or of publication in the **Federal Register**.[28] Absent extraordinary circumstances, the Bureau will debar you.[29] Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will

[11] Any further reference in this letter to ''your conviction'' refers to your February 13, 2007 guilty plea and subsequent conviction of mail fraud. *United States* v. *Keith J. Madeiros,* Criminal Docket No. 3:07–CR–29–RNC–2, Plea Agreement (D. Conn. filed Feb. 13, 2007 and entered Feb. 15, 2007) (''*Madeiros Plea Agreement*''); *United States* v. *Keith J. Madeiros,* 3:07–CR–29–RNC–2, Judgment (D. Conn. filed and entered Dec. 10, 2007) (''*Madeiros Judgment*'').

[12] 47 CFR 54.8; 47 CFR 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the schools and libraries universal service support mechanism in 2003. *See Schools and Libraries Universal Service Support Mechanism,* Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) \(''*Second Report and Order*'') (adopting section 54.521 to suspend and debar parties from the E-rate program). In 2007, the Commission extended the debarment rules to apply to all of the Federal universal service support mechanisms. *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.,* Report and Order, 22 FCC Rcd 16372, 16410–12 (2007) (*Program Management Order*) (renumbering section 54.521 of the universal service debarment rules as section 54.8 and amending subsections (a)(1), (5), (c), (d), (e)(2)(i), (3), (e)(4), and (g)).

[13] *See Second Report and Order,* 18 FCC Rcd at 9225, para. 66; *Program Management Order,* 22 FCC Rcd at 16387, para. 32. The Commission's debarment rules define a ''person'' as ''[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however, organized.'' 47 CFR 54.8(a)(6).

[14] *See Madeiros Plea Agreement* at 1; *United States* v. *Richard E. Brown and Keith J. Madeiros.,* Criminal Docket No. 3:07–CR–29–RNC–2, Information, paras. 1–21 (D. Conn. filed Feb. 13, 2007 and entered Feb. 14, 2007) (''*Madeiros/Brown Information*'').

[15] *See Madeiros/Brown Information* at paras. 8–9; *http://newhaven.fbi.gov/dojpressrel/2007/nh120707.htm* (last accessed Dec. 11, 2007) (''*DOJ December 7 Press Release*''). The Bureau has debarred Richard E. Brown from the E-Rate program. *See* Letter from Hillary S. DeNigro to Richard E. Brown, Notice of Debarment, DA 07–4732 (Enf. Bur., Investigations & Hearings Div., rel. Nov. 27, 2007).

[16] *See Madeiros/Brown Information* at para. 9; *DOJ December 7 Press Release* at 1.

[17] *See Madeiros/Brown Information* at paras. 11–21. The Bureau also has debarred Scott A. Federowicz from the E-Rate program. *See* Letter from Hillary S. DeNigro to Scott A. Federowicz, Notice of Debarment, 22 FCC Rcd 17258 (Enf. Bur., Investigations & Hearings Div., rel. Sept. 24, 2007).

[18] *See Madeiros/Brown Information* at paras. 11–21; *DOJ December 7 Press Release* at 1.

[19] *See DOJ December 7 Press Release* at 1.

[20] 47 CFR 54.8(a)(4). *See Second Report and Order,* 18 FCC Rcd at 9225–9227, paras. 67–74.

[21] 47 CFR 54.8(a)(1), (d).

[22] *Second Report and Order,* 18 FCC Rcd at 9226, para. 69; 47 CFR 54.8(e)(1).

[23] 47 CFR 54.8(e)(4).

[24] *Id.*

[25] 47 CFR 54.8(e)(5).

[26] *See Second Report and Order,* 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5), 54.8(f).

[27] ''Causes for suspension and debarment are the conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism.'' 47 CFR 54.8(c). Such activities ''include the receipt of funds or discounted services through [the Federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the Federal universal service] support mechanisms.'' 47 CFR. 54.8(a)(1).

[28] *See Second Report and Order,* 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(3).

[29] *Second Report and Order,* 18 FCC Rcd at 9227, para. 74.

provide you with notice of its decision to debar.[30] If the Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or publication of the decision in the **Federal Register**.[31]

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for three years from the date of debarment.[32] The Bureau may, if necessary to protect the public interest, extend the debarment period.[33]

Please direct any response, if by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002, to the attention of Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail), the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Diana Lee, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC 20554, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC 20554. You shall also transmit a copy of the response via e-mail to *diana.lee@fcc.gov* and to *vickie.robinson@fcc.gov.*

If you have any questions, please contact Ms. Lee via mail, by telephone at (202) 418–1420 or by e-mail at *diana.lee@fcc.gov.* If Ms. Lee is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *vickie.robinson@fcc.gov.*

Sincerely yours,

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail).
Anthony E. Kaplan, Esq., Supervisory Assistant United States Attorney.
Calvin B. Kurimai, Esq., Assistant United States Attorney.

[FR Doc. E8–13897 Filed 6–18–08; 8:45 am]

BILLING CODE 6712–01–P

[30] *See id.,* 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

[31] *Id.* The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 CFR 54.8(f).

[32] *Second Report and Order,* 18 FCC Rcd at 9225, para. 67; 47 CFR 54.8(d), 54.8(g).

[33] *Id.*

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collections to be submitted to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it is submitting to OMB a request for review and approval of the following collections of information: ''Flood Insurance,'' OMB No. 3064–0120, and ''Forms Relating to Processing Deposit Insurance Claims,'' OMB No. 3064–0143.

DATES: Comments must be submitted on or before July 21, 2008.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC. All comments should refer to the name of the collection. Comments may be submitted by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/propose.html.*
- *E-mail: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202.898.3719), Counsel, Federal Deposit Insurance Corporation, Room F–1064, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comments should also be submitted to the OMB Desk Officer for the FDIC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta G. Gregorie at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collection of Information

1. *Title:* Flood Insurance.

OMB Number: 3064–0120.

Frequency of Response: On occasion.

Affected Public: Any depository institution that makes one or more loans to be secured by a building located on property in a special flood hazard area.

Estimated Number of Respondents/Recordkeepers: 5,272.

Estimated Number of Transactions: 180,000.

Estimated Reporting Hours: .05 hours × 180,000 = 9,000.

Estimated Recordkeeping Hours: 1 hour × 5,272 hours = 5,272 hours.

Estimated Total Annual Reporting and Recordkeeping Burden Hours: 5,272 + 9,000 = 14,272 hours.

General Description of Collection: Each supervised lending institution is currently required to provide a notice of special flood hazards to each borrower with a loan secured by a building or mobile home located or to be located in an area identified by the Director of the Federal Emergency Management Agency as being subject to special flood hazards. The Riegle Community Development Act requires that each institution must also provide a copy of the notice to the servicer of the loan (if different from the originating lender).

2. *Title:* Forms Relating to Processing Deposit Insurance Claims.

OMB Number: 3064–0143.

Frequency of Response: On occasion.

Affected Public: Deposit brokers and depositors of failed insured institutions.

Estimated Number of Respondents: 5,095 (see chart below).

Total Annual Burden: 2,875 hours (see chart below).

BURDEN ESTIMATE, COMBINED DEPOSIT BROKERS AND INDIVIDUALS

[Frequency of response: occasional]

Form No.	Form title	Hours	Respondents	Burden hours
7200/03	Declaration for Testamentary Deposit (Single Grantor)	.50	1000	500
7200/04	Declaration for Public Unit Deposit	.50	500	250
7200/05	Declaration for Trust	.50	1100	550
7200/06	Declaration of Independent Activity	.50	25	12.5
7200/07	Declaration of Independent Activity for Unincorporated Association.	.50	25	12.5
7200/08	Declaration for Joint Ownership Deposit	.50	25	12.5
7200/09	Declaration for Testamentary Deposit (Multiple Grantors)	.50	500	250
7200/10	Declaration for Defined Contribution Plan	1.0	50	50
7200/11	Declaration for IRA/KEOGH Deposit	.50	50	25
7200/12	Declaration for Defined Benefit Plan	1.0	200	200
7200/13	Declaration of Custodian Deposit	.50	50	25
7200/14	Declaration for Health and Welfare Plan	1.0	200	200
7200/15	Declaration for Plan and Trust	.50	1300	650
Subtotal			5025	2738

BURDEN ESTIMATE, DEPOSIT BROKERS ONLY

	Burden per response	Number of responses	Burden hours
Deposit Broker Submission Checklist	5 minutes	70	6
Diskette, following "Broker Input File Requirements.".	The burden will vary depending on the broker's number of brokered accounts.		
	45 minutes	53 responses (75% of 70 annual responses).	40
	5 hours	18 responses (25% of 70 annual responses).	90
Exhibit B, the standard agency agreement, or the non-standard agency agreement.	1 minute	70	1
Subtotal		211	137

General Description of Collection: When an insured institution is closed by its primary regulatory authority, the FDIC has the responsibility to pay the insured claims of the failed bank depositors pursuant to sections 11(a) and (f) of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1821(a) and (f), and the FDIC's regulation on ''Deposit Insurance Coverage,'' 12 CFR Part 330.

Generally, deposits are insured to a maximum of $100,000. This maximum coverage is based on ''ownership rights and capacities.'' All deposits that are maintained in the same right and capacity are added together and insured up to $100,000 in accordance with the regulations relating to deposit insurance of that particular deposit insurance ownership category. Deposits held in different ownership categories are eligible for $100,000 coverage per category. For example, as a general rule, single-ownership accounts are separately insured from trust accounts held for qualified beneficiaries.

At the time of closing, the FDIC is provided information about customer accounts through the failed institution's records. Based on the institution's records, the FDIC makes preliminary determinations about insurance coverage for each depositor. Depositors initially deemed to be uninsured because their deposits are over $100,000 may be qualified for additional insurance coverage if they can provide documents certifying to the existence of varying ownership rights and capacities.

a. General Deposit Accounts. The forms, declarations, and affidavits in this collection facilitate customers providing the FDIC with the information that may permit a more comprehensive deposit insurance determination.

b. Deposit Brokers. A failed institution's account records may not reveal the actual owner(s) of a particular deposit account. Rather, the account records may indicate that the deposit was placed at the institution by a deposit broker on behalf of one or more third parties. In some cases, the broker's customer may not be an actual owner of the deposit but merely a ''second-tier'' deposit broker with its own customers. In turn, these customers could be ''third-tier'' deposit brokers with their own customers. Deposits held in the name of a deposit broker on behalf of clients are covered by federal deposit insurance (up to the $100,000 limit) the same as if the broker's clients had deposited the funds directly into the institution (assuming that the clients are the actual owners of the deposit). This is called ''pass-through'' deposit insurance coverage.

In order to analyze ownership interest and provide pass-through insurance coverage, the FDIC must obtain certain information from both first- and lower-tier deposit brokers: (1) Evidence that each deposit broker is not an owner but an agent or custodian with respect to some or all of the funds at issue; (2) a list of all parties for whom each deposit broker acted as agent or custodian; and (3) the dollar amount of funds held by each deposit broker for each such party as of the date of the depository institution's failure.

Request for Comment

Comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the information collections,

including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 16th day of June, 2008.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E8–13849 Filed 6–18–08; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

A De Novo Corporation To Do Business Under Section 25A of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25A of the Federal Reserve Act (''Edge Corporation'') 12 U.S.C. 611. The factors that are to be considered in acting on the application are set forth in the Board's Regulation K (12 CFR 211.5).

The application listed below is available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the officers of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding this application must be received at the Reserve Bank indicated or the office of the Board of Governors not later than July 3, 2008.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. TCF National Bank, Wayzata, Minnesota, to establish an Edge Corporation, TCF Bank International Inc., Wayzata, Minnesota, pursuant to section 25A of the Federal Reserve Act and section 211.5 of Regulation K.

Board of Governors of the Federal Reserve System.

June 13, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–13787 Filed 6–18–08; 8:45 am]

BILLING CODE 6210–01–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 July 14, 2008.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. First Security Bancorp, Searcy, Arkansas, to acquire 100 percent of the voting shares of Union Bancshares of Benton, Inc., and thereby indirectly acquire voting shares of The Union Bank of Benton, both of Benton, Arkansas.

Board of Governors of the Federal Reserve System, June 16, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–13874 Filed 6–18–08; 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 July 7, 2008.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. Bryn Mawr Bank Corporation, Bryn Mawr, Pennsylvania, to acquire 100 percent of the voting shares of JNJ Holdings, LLC, and indirectly acquire Lau Associates, LLC and Lau Professional Services, LLC, all of Wilmington, Delaware, and thereby engage in financial and investment advisory activities, pursuant to section 225.28(b)(6) of Regulation Y.

Board of Governors of the Federal Reserve System, June 16, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–13873 Filed 6–18–08; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Public Health and Science; Title XVII of the Public Health Service Act; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority to the Assistant Secretary for Health on September 28, 1979, by the Secretary of Health, Education and Welfare, the Acting Assistant Secretary for Health has delegated to the Deputy Assistant Secretary for Population Affairs all of the authorities under Title XVII of the Public Health Service Act, as amended, pertaining to the mission of the Office of Population Affairs, OSOPHS. The delegation excludes the authorities to issue regulations and to submit reports to the President. The delegation includes, but is not limited to, the authorities under sections 1704(1) and (2).

In addition, I have affirmed and ratified any actions taken by the Deputy Assistant Secretary for Population Affairs which in effect involve the exercise of the authorities delegated herein prior to the effective date of the delegation.

Redelegation

This authority may not be redelegated.

Prior Delegations

All previous delegations and redelegations under Title XVII of the Public Health Service Act shall continue in effect, provided they are consistent with this delegation.

Effective Date: This delegation became effective on the date stated below.

Dated: June 11, 2008.

Joxel Garcia,

Assistant Secretary for Health.

[FR Doc. E8–13649 Filed 6–18–08; 8:45 am]

BILLING CODE 4150–48–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Proposed Projects:

Title: DHHS/ACF/OPRE Head Start Classroom-based Approaches and Resources for Emotion and Social skill promotion (CARES) project: Site Recruitment Materials.

OMB No.: New collection.

Description: The Head Start Classroom-based Approaches and Resources for Emotion and Social skill promotion (CARES) project will evaluate program enhancements within Head Start settings serving three- and four-year-old children. This project focuses on identifying the central features of effective programs to provide the information federal policy makers and Head Start providers will need if they are to increase Head Start's capacity to improve the social and emotional skills and school readiness of preschool age children. The project is sponsored by the Office of Planning, Research, and Evaluation (OPRE) of the Administration for Children and Families (ACF).

The Head Start CARES project will use a group-based randomized design to test the effects of several different evidence-based strategies designed to improve the social and emotional development of children in Head Start classrooms.

The purpose of the proposed information collection is to recruit Head Start grantees to participate in the project, through informing grantee staff about the project, soliciting their interest in participating, and collecting information to assess their programs' eligibility to participate in the project.

Respondents: Respondents will include staff in Head Start grantees and delegate agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Project Description	40	1	.5	20
Phone Discussion Points & Screener	40	1	1	40
Discussion Guide for Site Visits	130	1	2	260

Estimated Total Annual Burden Hours: 320.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *OPREInfoCollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *FAX:* 202–395–6974, *Attn:* Desk Officer for ACF.

Dated: June 9, 2008.

Brendan C. Kelly,

OPRE Reports Clearance Officer.

[FR Doc. E8–13430 Filed 6–18–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Proposed Projects:

Title: Evaluation of the Community Healthy Marriage Initiative Implementation Study.

OMB No.: 0970–0283.

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is conducting a demonstration and evaluation called the Community Healthy Marriage Initiative

(CHMI). Demonstration programs have been funded through Child Support Enforcement waivers authorized under section 1115 of the Social Security Act to support healthy marriage, improve child well-being and increase the financial security of children. The objective of the evaluation is to: (1) Assess the implementation of community interventions designed to provide marriage education by examining the way the projects operate and by examining child support outcomes among low-income families in the community; and (2) evaluate the community impacts of these interventions on marital stability and satisfaction, child well-being and child support outcomes among low-income families.

The purpose of this information collection is to continue to collect implementation data under the protocols previously approved by the Office of Management and Budget (OMB), OMB Approval No. 0970–0283. Primary data for the implementation evaluation will come from observations, interviews, focus groups and records. One-on-one and small group interviews with project staff and marriage education service providers in the community will provide a detailed understanding of the administration and operation of the demonstrations. Focus group discussions will provide insights into participants' perspectives on marriage education and their experiences with the CHMI interventions.

In addition to the implementation information collected under this request, an impact evaluation will be integrated with the implementation study and will assess the effects of healthy marriage initiatives by comparing family and child well-being outcomes in the CHMI communities with similar outcomes in comparison communities that are well matched to the project sites. Data from the implementation studies will provide the basis for the instrumental variable models of CHMI impacts to help determine direct or indirect exposure to marriage-related services. Baseline data collected under the impact evaluation has been approved by OMB (see OMB Approval No. 0970–0322).

Respondents: Lead Project Staff, Service Provider Organization Staff, Key Community, Civic Stakeholders, and Program Participants.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Average number of responses per respondent	Average burden hours per response	Total burden hours
Administrative interviews	200	2	1	400
Small group interviews	25	1	1.6	40

Estimated Total Annual Burden Hours: 440.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *OPREInfoCollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Fax:* 202–395–6974, *Attn:* Desk Officer for ACF.

Dated: June 9, 2008.

Brendan C. Kelly,

OPRE Reports Clearance Officer.

[FR Doc. E8–13433 Filed 6–18–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0170]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Premarket Notification for a New Dietary Ingredient

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 21, 2008.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974, or e-mailed to *baguilar@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0330. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Premarket Notification for a New Dietary Ingredient—(OMB Control Number 0910–0330)—Extension

Section 413(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 350b(a)) provides that at least 75 days before the introduction or delivery for introduction into interstate commerce of a dietary supplement that contains a new dietary ingredient, a manufacturer or distributor of dietary supplements or of a new dietary ingredient is to submit to FDA (as delegate for the Secretary of Health and Human Services) information upon which the manufacturer or distributor has based its conclusion that a dietary supplement containing a new dietary

ingredient will reasonably be expected to be safe. Part 190 (21 CFR part 190) implements these statutory provisions. Section 190.6(a) requires each manufacturer or distributor of a dietary supplement containing a new dietary ingredient, or of a new dietary ingredient, to submit to the Office of Nutrition, Labeling, and Dietary Supplements notification of the basis for their conclusion that said supplement or ingredient will reasonably be expected to be safe. Section 190.6(b) requires that the notification include the following: (1) The complete name and address of the manufacturer or distributor, (2) the name of the new dietary ingredient, (3) a description of the dietary supplements that contain the new dietary ingredient, and (4) the history of use or other evidence of safety establishing that the dietary ingredient will reasonably be expected to be safe.

The notification requirements described previously are designed to enable FDA to monitor the introduction into the food supply of new dietary ingredients and dietary supplements that contain new dietary ingredients, in order to protect consumers from unsafe dietary supplements. FDA uses the information collected under these regulations to help ensure that a manufacturer or distributor of a dietary supplement containing a new dietary ingredient is in full compliance with the act.

In the **Federal Register** of March 26, 2008 (73 FR 16020), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
190.6	71	1	71	20	1,420

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The agency believes that there will be minimal burden on the industry to generate data to meet the requirements of the premarket notification program because the agency is requesting only that information that the manufacturer or distributor should already have developed to satisfy itself that a dietary supplement containing a new dietary ingredient is in full compliance with the act. However, the agency estimates that extracting and summarizing the relevant information from the company's files and presenting it in a format that will meet the requirements of section 413 of the act will require a burden of approximately 20 hours of work per submission.

The estimated number of premarket notifications and hours per response is an average based on the agency's experience with notifications received during the last 3 years (i.e., 2005, 2006, and 2007), and information from firms that have submitted recent premarket notifications.

Dated: June 13, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–13818 Filed 6–18–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, The Biochemistry and Molecular Biology of Pathogens.

Date: June 20, 2008.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Rolf Menzel, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, 301–435–0952, *menzelro@csr.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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 10, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13509 Filed 6–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 21, 2008, 12 p.m. to July 21, 2008, 1:30 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on June 9, 2008, 73 FR 32589–32590.

The meeting will be held July 29, 2008, 2 p.m. to 3:30 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: June 10, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13510 Filed 6–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 15, 2008, 1 p.m. to July 15, 2008, 4 p.m., One Washington Circle Hotel, One Washington Circle, Washington, DC, 20037 which was published in the **Federal Register** on June 9, 2008, 73 FR 32589–32590.

The meeting will be held July 8, 2008, 8 a.m. to 5 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: June 12, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Commiftee Policy.

[FR Doc. E8–13798 Filed 6–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Cancellation of Meeting

Notice is hereby given of the cancellation of the Center for Scientific Review Special Emphasis Panel, July 8, 2008, 8 a.m. to July 8, 2008, 4:30 p.m., One Washington Circle Hotel, One Washington Circle, NW., Washington, DC, 20037 which was published in the **Federal Register** on June 2, 2008, 73 FR 31493–31495.

The meeting is cancelled due to the applications being withdrawn.

Dated: June 12, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13800 Filed 6–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurogenetics 2.

Date: June 23, 2008.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert C. Elliott, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov*.

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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 12, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13801 Filed 6–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pregnancy and Developmental Biology.

Date: July 8, 2008.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Nancy Sheard, SCD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046–E, MSC 7892, Bethesda, MD 20892, 301–435–1154, *sheardn@csr.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: Center for Scientific Review Special Emphasis Panel Member, Conflicts: Skeletal Biology.

Date: July 9, 2008.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: John P. Holden, PhD, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, 301–496–8551, *holdenjo@csr.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: Center for Scientific Review Special Emphasis Panel, NRSA Postdoctoral Fellowships in Evolution.

Date: July 10, 2008.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Mary P. McCormick, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892, 301/435–1047, *mccormim@csr.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: Center for Scientific Review Special Emphasis Panel, Diabetes, Obesity, Nutrition and Reproductive Sciences.

Date: July 11, 2008.

Time: 8 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Krish Krishnan, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164,

MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.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: AIDS and Related Research Integrated Review Group, HIV/AIDS Vaccines Study Section.

Date: July 11, 2008.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mary Clare Walker, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892, (301) 435–1165, *walkermc@csr.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: Center for Scientific Review Special Emphasis Panel, Vitamin A and D Metabolism.

Date: July 14–15, 2008.

Time: 1 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Gebretateos Woldegiorgis, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6168, MSC 7892, Bethesda, MD 20892, 301–435–1717, *woldegig@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Physiology and Pathobiology of Organ Systems.

Date: July 22, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Avenue Hotel, 160 East Huron Street, Chicago, IL 60611.

Contact Person: Abdelouahab Aitouche, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2183, MSC 7818, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Physiology and Pathobiology of Organ Systems—Cardiovascular, Pulmonary, and Hematology.

Date: July 24, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Avenue Hotel, 160 East Huron Street, Chicago, IL 60611.

Contact Person: Abdelouahab Aitouche, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2183, MSC 7818, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Reading and Attention.

Date: July 30, 2008.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Biao Tian, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93892, 93.893, National Institutes of Health, HHS)

Dated: June 12, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13802 Filed 6–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders

Cancellation of Meeting

Notice is hereby given of the cancellation of the Communication Disorders Review Committee, June 19, 2008, 10 a.m. to June 19, 2008, 11 a.m., The Westin Washington, DC, 1400 M Street, NW., Washington, DC 20005 which was published in the **Federal Register** on May 30, 2008, Vol. 73, No. 105.

This meeting is combined with the meeting being held on June 18, 2008.

Dated: June 12, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13824 Filed 6–18–08; 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, Adult Brain Tumor Clinical Consortium (ABTC).

Date: June 25–26, 2008.

Time: 6 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Gerald G. Lovinger, PhD, Scientific Review Officer, Special Review And Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8101, Bethesda, MD 20892–8329, 301–496–7987, *lovingeg@mail.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, CA08–019 Tumor Stem Cells in Cancer Biology, Prevention, and Therapy (R01).

Date: July 21–22, 2008.

Time: 5 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Shakeel Ahmad, PhD, Scientific Review Officer, Research Programs Review Branch, National Cancer Institute, Division of Extramural Activities, 6116 Executive Boulevard, Room 8137, Bethesda, MD 20892–8328, 301–594–0114, *ahmads@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Comparative Systems Genetics of Cancer.

Date: July 22, 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: Shamala K. Srinivas, PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8123, Bethesda, MD 20892, 301–594–1224, *ss537t@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: June 12, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13820 Filed 6–18–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel NINDS Human Genetics Resource Center.

Date: June 18, 2008.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, DHHS/NIH/NINDS/DERISRB, 6001 Executive Boulevard; MSC 9529, Neuroscience Center; Room 3203, Bethesda, MD 20892–9529, (301) 496–5388, *wiethorp@ninds.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 Institute of Neurological Disorders and Stroke Special Emphasis Panel STROKE CONSORTIA.

Date: June 26, 2008.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Washington DC Franklin Square, 815 14th Street, NW., Washington, DC 20005.

Contact Person: Richard D. Crosland, PhD., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–594–0635, *rc218u@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 Institute of Neurological Disorders and Stroke Special Emphasis Panel F30 REVIEW.

Date: July 9, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Willard Intercontinental Washington, 1401 Pennsylvania Avenue, NW., Washington, DC 20004.

Contact Person: Joann McConnell, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–5324, *mcconnej@ninds.nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel K 99 REVIEW.

Date: July 10, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Willard Intercontinental Washington, 1401 Pennsylvania Avenue, NW., Washington, DC 20004.

Contact Person: Joann McConnell, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–5324, *mcconnej@ninds.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: June 10, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13511 Filed 6–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Alzheimer's Disease Drug Development.

Date: June 24, 2008.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Bldg., 7201 Wisconsin Ave., 2C212, Bethesda, MD 20814. (Telephone Conference Call)

Contact Person: Elaine Lewis, PhD, Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 12, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13794 Filed 6–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review R03s.

Date: July 17, 2008.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mario Rinaudo, MD, Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, National Institutes of Health, 6701 Democracy Blvd (DEM 1), RM 670 MSC4878, Bethesda, MD 20892, 301–594–2904, *mrinaudo@nidcr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: June 12, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–13797 Filed 6–18–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2008–0055]

Homeland Security Advisory Council

AGENCY: Policy Directorate, DHS.

ACTION: Committee Management; Notice of Partially Closed Federal Advisory Committee Meeting.

SUMMARY: In the June 11, 2008, issue of the **Federal Register** Notice at 73 FR 33102, the Homeland Security Advisory Council (HSAC) announced that it will meet for purposes of reviewing recommendations from the Essential Technology Task Force (ETTF) on June 25, 2008, in Washington, DC, and receive briefings from Secretary Michael Chertoff and other DHS officials. The announcement stated that the meeting will be partially closed to the public. This notice supplements the original meeting notice.

DATES: The HSAC will meet June 25, 2008, from 10 a.m. to 3:30 p.m. The meeting will be closed from 10 a.m. to 11 a.m. and from 12 p.m. to 3:30 p.m.

ADDRESSES: The open portion of the meeting will be held in Salon II at the Ritz-Carlton Hotel located at 1150 22nd Street, NW., in Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jennifer Myers, Homeland Security Advisory Council, (202) 447–3135, *HSAC@dhs.gov.* Homeland Security Advisory Council, c/o Jennifer Myers, 245 Murray Drive, SW., Building 410, Mailstop 0850, Washington, DC 20528.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The HSAC provides independent advice to the Secretary of the Department of Homeland Security to aide in the creation and expeditious implementation of critical and actionable policy and operational capacities across the spectrum of homeland security operations. The HSAC shall periodically report, as appropriate, to the Secretary on matters within the scope of that function. The HSAC serves as an advisory body with the goal of providing advice upon the request of the Secretary. The Federal Advisory Committee Act requires **Federal Register** publication 15 days prior to a meeting. The original HSAC meeting announcement was published 14 days prior to the meeting due to venue and computer problems. All known interested parties were made aware of the meetings with sufficient time for planning purposes. For agenda and other pertinent information please reference **Federal Register** Notice published on June 11, 2008 at 73 FR 33102.

Dated: June 16, 2008.

Jeffrey D. Stern,

Executive Director, Homeland Security Advisory Council, Department of Homeland Security.

[FR Doc. E8–13918 Filed 6–18–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

National Communications System

[Docket No. NCS–2008–0002]

President's National Security Telecommunications Advisory Committee

AGENCY: National Communications System, DHS.

ACTION: Notice of partially closed advisory committee meeting.

SUMMARY: The President's National Security Telecommunications Advisory Committee (NSTAC) will be meeting by teleconference; the meeting will be partially closed to the public.

DATES: August 4, 2008, from 2 p.m. until 3 p.m.

ADDRESSES: The meeting will take place by teleconference. For access to the conference bridge and meeting materials, contact Ms. Sue Daage at (703) 235–5526 or by e-mail at *sue.daage@dhs.gov* by 5:00 p.m. July 25, 2008. If you have comments relating to the August 4, 2008 meeting, you must submit by August 11, 2008. Comments must be identified by NCS–2008–0002 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: NSTAC1@dhs.gov.* Include docket number in the subject line of the message.
- *Mail:* Office of the Manager, National Communications System (N5), Department of Homeland Security, Washington, DC 20529.
- *Fax:* 1–866–466–5370.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and NCS–2008–0002, the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the NSTAC, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Kiesha Gebreyes, Chief, Industry Operations Branch at (703) 235–5525, e-mail: *Kiesha.Gebreyes@dhs.gov* or write the Deputy Manager, National Communications System, Department of Homeland Security, CS&C/NCS/N5, 245 Murray Lane, SW., Building 410, Washington, DC 20528.

SUPPLEMENTARY INFORMATION: NSTAC advises the President on issues and problems related to implementing national security and emergency preparedness telecommunications policy. Notice of this meeting is given under the Federal Advisory Committee Act (FACA), Public Law 92–463, (5 U.S.C. App.).

At the upcoming meeting, between 2 p.m. and 2:30 p.m., the conference call will include government stakeholder feedback on NSTAC initiatives and updates on research and development, outreach efforts and traffic management. This portion of the meeting will be open to the public.

Between 2:30 p.m. and 3 p.m., the NSTAC will hold discussions on core network assurance and the NSTAC Work Plan. The NSTAC also will vote on the work plan. This portion of the meeting will be closed to the public.

Persons with disabilities who require special assistance should indicate this when arranging access to the teleconference and are encouraged to identify anticipated special needs as early as possible.

Basis for Closure: Discussions about network security will contain sensitive industry information concerning specific system threats and explicit

physical/cyber vulnerabilities. Pursuant to section 10(d), 5 U.S.C., the Department has determined that this discussion will likely reveal trade secrets or financial information obtained from private parties which is privileged or confidential. Pursuant to section 10(d), 5 U.S.C., the Department has also determined that this discussion will concern matters which, if disclosed, would likely frustrate the implementation of a proposed agency action. Accordingly, the relevant portion of this meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(4) and 552b(c)(9)(B).

James Madon,

Director, National Communications System.

[FR Doc. E8–13832 Filed 6–18–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

U.S. Forest Service

[WO–300–9131–PP]

Notice of Correction to Notice of Availability of the Draft Programmatic Environmental Impact Statement for Leasing of Geothermal Resources in 11 Western States and Alaska and Notice of Public Hearings

AGENCIES: Bureau of Land Management, Interior; and U.S. Forest Service, Agriculture.

ACTION: Notice of Correction.

SUMMARY: On June 13, 2008 the BLM published a Notice of Availability in the **Federal Register** (73 FR 33802), which inadvertently printed an incorrect list of public meeting dates.

DATES: To ensure comments will be considered, the BLM must receive written comments on the Draft PEIS within 90 days following the date the Environmental Protection Agency publishes the Notice of Availability in the **Federal Register**. Public hearings will be held in 13 cities during July 2008. See the **SUPPLEMENTARY INFORMATION** section for meeting dates and locations.

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

E-mail: geothermal_EIS@blm.gov.

Fax: 1–866–625–0707.

US Mail: Geothermal Programmatic EIS, c/o EMPSi, 182 Howard Street, Suite 110, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: For further information, including information on how to comment, contact Jack G. Peterson, Bureau of Land Management at (208) 373–4048, *Jack_G_Peterson@blm.gov* or Tracy Parker, Forest Service at (703) 605–4796, *tparker03@fs.fed.us,* or visit the PEIS Web site at *http://www.blm.gov/Geothermal—EIS.*

SUPPLEMENTARY INFORMATION: A copy of the Draft PEIS is available for review via the Internet from a link at *http://www.blm.gov/Geothermal—EIS.* Hardcopies are available for review at the BLM State and Field Offices. Electronic (on CD–ROM) and paper copies may also be obtained by contacting Jack Peterson at the aforementioned address and phone number.

The public is encouraged to provide comments on the Draft PEIS. In addition to the written comment period, the BLM and the FS will host 13 public meetings to collect additional comments. The public meeting dates and addresses are as follows:

1. Tuesday, July 8, 2008, 5:30 to 7:30 p.m., Anchorage, Alaska; Alaska Energy Authority, 813 W. Northern Lights Blvd.
2. Wednesday, July 9, 2008, 5:30 to 7:30 p.m., Fairbanks, Alaska; Fairbanks North Star Public Library Auditorium, 1215 Cowles Street.
3. Monday, July 14, 2008, 5:30 to 7:30 p.m., Reno, Nevada; Washoe County Library, Shoshone Room, Spanish Springs Branch, 7100A Pyramid Highway.
4. Tuesday, July 15, 2008, 5:30 to 7:30 p.m., Salt Lake City, Utah; Main Library, Level 4 Conference Room, 210 East 400 South.
5. Wednesday, July 16, 2008, 5:30 to 7:30 p.m., Tucson, Arizona; Pima County Public Library, Dusenberry River Branch, 5605 East River Road.
6. Thursday, July 17, 2008, 5:30 to 7:30 p.m., Cheyenne, Wyoming; Laramie County Library, Willow Room, 200 Pioneer Avenue.
7. Monday, July 21, 2008, 5:30 to 7:30 p.m., Boise, Idaho; Boise Public Library, William F. Hayes Memorial Auditorium, 715 South Capital Blvd.
8. Tuesday, July 22, 2008, 5:30 to 7:30 p.m., Albuquerque, New Mexico; University of New Mexico Conference Center (Room C), 1634 University NE.
9. Wednesday, July 23, 2008, 5:30 to 7:30 p.m., Helena, Montana; Lewis and Clark Library, 120 South Last Chance Gulch.
10. Thursday, July 24, 2008, 5:30 to 7:30 p.m., Denver, Colorado; PPA Event Center, Evergreen A Room, 2105 Decatur Street.
11. Monday, July 28, 2008, 5:30 to 7:30 p.m., Seattle, Washington; Seattle Public Library, University Branch, 5009 Roosevelt Way NE.
12. Tuesday, July 29, 2008, 5:30 to 7:30 p.m., Portland, Oregon; Multnomah County Central Library, U.S. Bank Room, 801 SW 10th Avenue.
13. Wednesday, July 30, 2008, 5:30 to 7:30 p.m., Sacramento, California; California Energy Commission, Hearing Room A, 1516 Ninth Street.

Any changes to these dates or locations, and any other public involvement activities, will be announced at least 10 days in advance through local media and on the project Web site: *http://www.blm.gov/Geothermal—EIS.*

Ray Brady,

Acting Assistant Director, Minerals and Realty Management.

Gloria Manning,

Associate Deputy Chief for National Forest System, U.S. Forest Service.

[FR Doc. E8–13890 Filed 6–18–08; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–130–1020–AL; GP8–0124]

Notice of Public Meeting, Eastern Washington Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Eastern Washington Resource Advisory Council will meet as indicated below.

DATES: Wednesday, July 16, 2008 at the Folsom Farm site within the BLM Fishtrap Recreation Area, which is located 30 miles southwest of Spokane, WA, near the town of Sprague, WA.

SUPPLEMENTARY INFORMATION: Target shooting safety will be the primary topic of discussion. The meeting will start at 1 p.m., end at approximately 3 p.m., and be open to the public. There will be a public comment period from 1 p.m. to 1:30 p.m. A map showing the meeting location is available on the internet at *http://www.blm.gov/or/districts/spokane.*

FOR FURTHER INFORMATION CONTACT: Scott Pavey or Sandie Gourdin, BLM, Spokane District, 1103 N. Fancher Rd.,

Spokane Valley, WA, 99212, or call (509) 536–1200.

Dated June 13, 2008.

Robert B. Towne,

District Manager.

[FR Doc. E8–13847 Filed 6–18–08; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–0777–XZ–241A]

Notice of Meeting, Front Range Resource Advisory Council (Colorado)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Front Range Resource Advisory Council (RAC) will meet as indicated below.

DATES: The meeting will be held July 15, 2008 from 9:15 a.m. to 4 p.m.

ADDRESSES: Bureau of Land Management Royal Gorge Field Office, 3028 East Main Street, Canon City, Colorado 81212.

FOR FURTHER INFORMATION CONTACT: John Dow, (719) 269–8559.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in the Royal Gorge Field Office and San Luis Valley, Colorado. Planned agenda topics include: Manager updates on current land management issues including presentations and discussions on the South Park Land Tenure Adjustment Plan Amendment-Environmental Assessment, Implementation of the Arkansas River Travel Management Plan and the Over the River project.

All meetings are open to the public. The public is encouraged to make oral comments to the Council at 9:30 a.m. or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Summary minutes for the Council Meeting will be maintained in the Royal Gorge Field Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting. Meeting Minutes and agenda (10 days prior to each meeting) are also available at: *http://www.blm.gov/rac/co/frrac/co_fr.htm.*

Dated: June 11, 2008.

Roy L. Masinton,

Field Manager, Royal Gorge Field Office.

[FR Doc. E8–13852 Filed 6–18–08; 8:45 am]

BILLING CODE 4310–JB–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–533]

In the Matter of Certain Rubber Antidegradants, Components Thereof, and Products Containing Same; Notice Regarding Remand Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: This notice clarifies that the parties to the remand proceeding which was the subject of the Commission's June 3, 2008, notice and order are complainant Flexsys America L.P., respondents Sinorgchem Co. and Sovereign Chemical Company, and the Commission investigative attorney.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 29, 2005, based on a complaint brought by Flexsys America L.P. (''Flexsys''), alleging a violation of section 337 in the importation, the sale for importation, or the sale after importation of certain rubber antidegradants, components thereof, or products containing same by reason of infringement of claims 30 or 61 of U.S. Patent No. 5,117,063 (''the '063 patent''), or claims 7 or 11 of U.S. Patent No. 5,608,111 (''the '111 patent''), or claims 1, 32, or 40 of U.S. Patent No. 6,140,538 (''the '538 patent''). 70 FR 15,855 (Mar. 29, 2005). The patents teach processes for the production of 4–ADPA and alkylated derivatives of 4–ADPA. One of these alkylated derivatives, 6–PPD, is used to prevent the degradation of rubber.

The complaint named as respondents Sinorgchem Co. (''Sinorgchem'') of Shandong, China, as well as Sovereign Chemical Company (''Sovereign''), Korea Kumho Petrochemical Co., Ltd. (''KKPC''), Vilax Corporation (''Vilax''), and Stolt-Nielson Transportation Group Ltd. (''Stolt-Nielson''). It was alleged that the accused rubber antidegradant products were made using the patented processes. The investigation was terminated with regard to the '538 patent, and with regard to Vilax and Stolt-Nielson.

On February 16, 2006, the ALJ issued his final initial determination (''final ID'' or ''ID''). The ALJ found that Sinorgchem and Sovereign had violated section 337 by infringing the asserted claims of the '063 and '111 patents, but found that KKPC had not. All parties petitioned for review of various parts of the final ID.

The Commission reviewed the ALJ's final ID in its entirety, and solicited further briefing from the parties on the issues on review, as well as the on the issues of remedy, the public interest, and bonding. 71 FR 20131 (April 19, 2006). On review, the Commission found the asserted claims to be infringed by Sinorgchem and Sovereign, made a determination of violation of section 337 by Sinorgchem and Sovereign, and issued a limited exclusion order. The limited exclusion order barred the unauthorized importation into the United States by Sinorgchem and Sovereign of 4–ADPA, made by a process covered by claim 30 of the '063 patent or claim 7 of the '111 patent, and 6–PPD, made by a process covered by claim 61 of the '063 patent or claim 11 of the '111 patent.

Sinorgchem appealed the Commission's final determination of violation to the U.S. Court of Appeals for the Federal Circuit (''Federal Circuit''). Flexsys did not appeal the Commission's final determination that KKPC had not violated section 337. On December 21, 2007, the Federal Circuit issued its judgment vacating and remanding the Commission's final determination of violation for further proceedings consistent with the Court's opinion. *Sinorgchem Co., Shandong* v.

International Trade Commission, 511 F.3d 1132 (Fed. Cir. 2007). Intervenor Flexsys America L.P. (''Flexsys'') petitioned the Federal Circuit for rehearing and rehearing *en banc.* The Commission supported rehearing. On April 7, 2008, the Federal Circuit denied the petition for rehearing and rehearing *en banc.* The mandate of the Court issued on April 14, 2008.

On June 3, 2008, the Commission determined to rescind the limited exclusion order relating to the importation of rubber antidegradants made by Sinorgchem and Sovereign and to remand the investigation to the presiding ALJ for proceedings consistent with *Sinorgchem Co., Shandong* v. *International Trade Commission,* 511 F.3d 1132 (Fed. Cir. 2007), including issuance of a final initial determination on violation and a recommended determination on remedy and bonding.

The parties to the remand proceeding are Flexsys, Sinorgchem, Sovereign, and the Commission investigative attorney.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), the Administrative Procedure Act, and Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: June 13, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–13875 Filed 6–18–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Cengage Learning Holdings I, L.P., Cengage Learning Holdings II L.P., Cengage Learning, Inc., Apax/Tl Holdings, LLC, Education Media and Publishing Group Limited, and Houghton Mifflin Harcourt Publishing Company; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Asset Preservation Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *Cengage Learning Holdings I, L.P.,* Civil Action No. 1:08–cv–00899. On May 28, 2008, the United States filed a Complaint alleging that the proposed acquisition by Cengage Learning of the assets of Houghton Mifflin College Division would violate section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires Cengage Learning to divest assets related to textbooks and educational materials used in 14 college-level courses.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street, NW., Suite 1010, Washington, DC 20530 (*telephone:* 202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr*, and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to James J. Tierney, Chief, Networks & Technology Enforcement Section, Antitrust Division, Department of Justice, 600 E Street, NW., Suite 9500, Washington, DC 20530 (*telephone:* 202–307–6200).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

The United States District Court for the District of Columbia

United States of America, United States Department of Justice, Antitrust Division, 600 E Street, NW., Suite 9500, Washington, DC 20530, Plaintiff, v. Cengage Learning Holdings I, L.P., Cengage Learning Holdings II L.P., Cengage Learning, Inc., Apax/Tl Holdings, LLC, Education Media and Publishing Group Limiited, and Houghton Mifflin Harcourt Publishing Company, Defendants

Case No.:
Judge:
Case: 1:08–cv–00899, Assigned To: Bates, John D., Assign. Date: 5/28/2008, Description: Antitrust.

Complaint

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to enjoin the proposed acquisition by Cengage Learning, Inc. and related entities (collectively ''Cengage''), of the assets of the Houghton Mifflin College Division (''HM College'') from Houghton Mifflin Harcourt Publishing Company and a related entity (collectively ''Houghton Mifflin''), and to obtain equitable and other relief. The United States complains and alleges as follows:

I. Nature of the Action

1. On or about November 30, 2007, Cengage and Houghton Mifflin entered into an agreement for Cengage to acquire the assets of HM College for approximately $750 million.

2. Cengage and HM College publish textbooks and other educational materials and are direct competitors in the development, publication, and sale of textbooks and ancillary print and electronic (including Internet-based) educational materials (collectively ''textbooks and ancillary materials'') used in numerous courses taught at higher education institutions throughout the United States.

For the courses listed in Appendix A of this Complaint (hereinafter ''the Overlap Courses''), Cengage and HM College publish textbooks and ancillary materials that compete head-to-head with each other and are close substitutes.

3. The markets for textbooks and ancillary materials used in the Overlap Courses are highly concentrated and have high barriers to entry. Cengage's proposed acquisition of the assets of HM College would eliminate competition between Cengage and HM College in these markets.

4. The United States brings this action to prevent Cengage's proposed acquisition of the assets of HM College because it is likely to substantially lessen competition in the development, publication, and sale of textbooks and ancillary materials used in the Overlap Courses in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

II. Parties to the Proposed Acquisition

5. Cengage Learning, Inc. is a Delaware corporation with its headquarters in Stamford, Connecticut. Cengage Learning Holdings I, L.P., a limited partnership with its headquarters in Stamford, Connecticut, is the ultimate parent entity of Cengage Learning, Inc. Cengage Learning Holdings II L.P., a limited partnership with its headquarters in Stamford Connecticut, is an intermediate entity between Cengage Learning Holdings I, L.P. and Cengage Learning, Inc. Apax/TL Holdings, LLC, a Delaware limited liability company, is the general partner in Cengage Learning Holdings I, L.P. The above entities (collectively ''Cengage'') develop, publish, and sell textbooks and ancillary materials for use

in the United States and elsewhere. Cengage is the second largest publisher of textbooks and ancillary materials used in courses taught at higher education institutions in the United States and ranks among the top three sellers of such textbooks and materials for each of the Overlap Courses. Cengage had total revenues of about $1.7 billion in the twelve-month period ending September 30, 2007, including about $1 billion in revenues from the sale of higher education textbooks and ancillary materials.

6. Houghton Mifflin Harcourt Publishing Company (formerly Houghton Mifflin Company) is a Massachusetts corporation with its headquarters in Boston, Massachusetts. Education Media and Publishing Group Limited, a Cayman Islands corporation with its headquarters in Dublin, Ireland, is the ultimate parent entity of Houghton Mifflin Harcourt Publishing Company. The above entities (collectively ''Houghton Mifflin'') develop, publish, and sell textbooks and ancillary materials for use in the United States and elsewhere. Houghton Mifflin's HM College Division is the fifth largest publisher of textbooks and ancillary materials used in courses taught at higher education institutions in the United States and ranks among the top three sellers of such textbooks and materials for each of the Overlap Courses. Houghton Mifflin has total annual revenues of about $2.5 billion, and estimated 2007 revenues of about $230 million from the sale of textbooks and ancillary materials by HM College.

III. Jurisdiction and Venue

7. The United States brings this action under Section 15 of the Clayton Act, as amended, 15 U.S.C. 25, to prevent and restrain the Defendants from violating section 7 of the Clayton Act, 15 U.S.C. 18.

8. Defendants' activities in developing, publishing, and selling textbooks and ancillary materials for use in the Overlap Courses are in the flow of and substantially affect interstate trade and commerce. This Court has subject matter jurisdiction over this action pursuant to section 12 of the Clayton Act, 15 U.S.C. 22, and 28 U.S.C. 1331, 1337(a), and 1345.

9. Defendants sell higher education textbooks and ancillary materials in, and have consented to venue and personal jurisdiction in, this judicial district. Venue is proper under 15 U.S.C. 22 and 28 U.S.C. 1391(d).

IV. Trade and Commerce

A. Relevant Product Markets for Textbooks and Ancillary Materials

10. Publishers market and sell textbooks and ancillary materials for use in courses taught at higher education institutions. In most cases, instructors select the textbooks and ancillary materials that will be used for their courses, and students buy the selected textbooks and ancillary materials.

11. Textbooks are often supplemented with ancillary educational materials, such as teacher's editions, audio-visual teaching tools, Internet content, CD-ROMs, workbooks, and study guides. These materials are often offered by publishers for free or as part of a discounted package to induce instructors to select a particular textbook and to induce students to purchase the publisher's textbooks and ancillary materials.

12. Textbooks and ancillary materials are used as the primary teaching materials in each of the Overlap Courses. Textbooks provide the core written material for the Overlap Courses and serve as the foundation for instructors' overall lesson plans. While instructors could use alternative teaching materials (such as copies of lecture notes and articles), they generally select textbooks to serve as the primary teaching materials for their courses because accessing and creating alternative teaching materials is often a more time-consuming, costly, and inefficient method of delivering high quality content to their students. Instructors using textbooks and ancillary materials would not turn to any alternative teaching materials in sufficient numbers to defeat a small but significant increase in the price of any textbooks and ancillary materials for the Overlap Courses, or a small but significant decrease in the quality of such textbooks and other materials.

13. Students taking the Overlap Courses are unlikely to have any significant alternatives to purchasing new textbooks for these courses. Although used textbooks, if available, can sometimes serve as alternatives for new textbooks, used textbooks are not uniformly available in large numbers. Moreover, instructors often require students to use the newest textbook editions. Publishers generally revise textbooks every three to four years and revised textbooks often differ substantially from their prior edition, limiting the extent to which used textbooks may be substituted for new editions of the same textbooks. Students would not turn to purchasing used textbooks in sufficient numbers to defeat a small but significant increase in the price of a new edition of the textbooks.

14. Each Overlap Course is a separate course focused on a different subject and therefore requires instructors and students in the course to use the textbooks and ancillary materials that have been developed for that course. For each Overlap Course, the textbooks and ancillary materials for that course constitute a separate relevant product market and a line of commerce pursuant to Section 7 of the Clayton Act.

B. The Relevant Geographic Market

15. Defendants market and sell textbooks and ancillary materials for use in courses taught at higher education institutions throughout the United States. Market participants for each relevant product market alleged herein are those publishers from which instructors select textbooks and ancillary materials for use as primary teaching materials in their courses. A hypothetical monopolist of the textbooks and ancillary materials sold for use in any Overlap Course in the United States could profitably lower the rate of quality improvements in and/or increase the price of such textbooks and ancillary materials in the United States. For each relevant product market alleged herein, the United States constitutes a relevant geographic market pursuant to Section 7 of the Clayton Act.

C. Anti Competitive Effects: Loss of Price and Product Quality Competition

16. In each relevant product and geographic market alleged herein, Cengage and HM College offer leading textbooks and ancillary materials that are close substitutes for a significant number of customers in that market. In each such market, Cengage and HM College are among the few firms with a significant presence that compete to provide textbooks and ancillary materials and consistently account for at least 35 percent of all sales. Using a standard concentration measure called the Herfindahl-Hirschman Index (or ''HHI,'' defined and explained in Appendix B), the proposed acquisition would substantially raise market concentration in highly concentrated markets, increasing the HHI by more than 500 and producing a post-merger HHI in excess of 3000 in each relevant market.

17. Cengage and HM College compete head-to-head to be selected by instructors to provide textbooks and ancillary materials for each Overlap Course in the United States. This competition has provided significant

incentives for each to publish new titles and improve product quality and has disciplined pricing decisions. The proposed acquisition would eliminate this competition in each relevant market, increasing the likelihood that Cengage will unilaterally increase prices or reduce its investment or other efforts to develop new or improved textbooks and ancillary materials.

18. The proposed acquisition is likely to substantially lessen competition in the development, publication, and sale of textbooks and ancillary materials in each of the relevant markets, in violation of Section 7 of the Clayton Act.

D. Entry: New Entrants Will Not Defeat an Exercise of Market Power

19. In each relevant product and geographic market alleged herein, there is unlikely to be timely entry by any firm that would be sufficient to defeat the likely anticompetitive effects of the proposed acquisition. Successful entry into developing, publishing, and selling textbooks and ancillary materials in each of the relevant markets is difficult, time-consuming, and costly.

20. Successful entry generally can be achieved only over many years and after at least one or more textbook revision cycles. Significant investment and effort are required to assemble authors, editorial staff, and reviewing professors, to develop and obtain licenses to copyrighted content and ancillary educational materials, and to train a knowledgeable sales force. The outcome of such effort would be highly uncertain because, among other things, the reputation of a successful incumbent textbook is difficult for a publisher of a new textbook to challenge. The leading textbooks in each relevant market have been published for some time and are well-known to instructors. Most instructors switch textbooks infrequently because they develop course syllabi, lesson plans, homework, tests, and other materials that conform to the textbooks they use, and changing textbooks usually requires modifications to course syllabi and other materials.

V. Violations Alleged

21. The United States incorporates the allegations of paragraphs 1 through 20 above.

22. The proposed acquisition of HM College by Cengage would substantially lessen competition in interstate trade and commerce in violation of section 7 of the Clayton Act, 15 U.S.C. 18.

23. Unless restrained, the acquisition would likely have the following anticompetitive effects, among others:

a. Actual and future competition between Cengage and Houghton Mifflin in the development, publication, and sale of textbooks and ancillary materials in each relevant product and geographic market alleged herein will be eliminated;

b. Competition in the development, publication, and sale of textbooks and ancillary materials in each relevant market will be substantially lessened; and

c. The rate of quality improvements in the textbooks and ancillary materials in each relevant market likely will decline and/or prices for such textbooks and ancillary materials likely will increase.

VI. Request for Relief

24. The United States requests that this Court:

a. Adjudge and decree the proposed acquisition to violate section 7 of the Clayton Act, 15 U.S.C. 18;

b. Enjoin and restrain the Defendants and all persons acting on their behalf from consummating the proposed acquisition or from entering into or carrying out any contract, agreement, plan, or understanding, the effect of which would be to combine HM College with the operations of Cengage;

c. Award the United States its costs for this action; and

d. Grant the United States such other and further relief as the Court deems just and proper.

Respectfully submitted,

For Plaintiff United States of America:
Thomas O. Barnett (D.C. Bar #426840), *Assistant Attorney General.*
James J. Tierney (D.C. Bar #434610), Chief, Networks & Technology Enforcement Section.
David L. Meyer (D.C. Bar #414420), *Deputy Assistant Attorney General.*
Scott A. Scheele (D.C. Bar #429061), *Assistant Chief, Networks & Technology Enforcement Section.*
Patricia A. Brink, *Deputy Director of Operations.*
Janet J. Brody.
Justine K. Donahue (D.C. Bar #476255).
Aaron Comenetz (D.C. Bar #479572).
John C. Filippini (D.C. Bar #165159).
Kent Brown.
Aaron Brodsky.
Attorneys, Networks & Technology Enforcement Section.
Antitrust Division, United States Department of Justice, 600 B Street, NW., Suite 9500, Washington, DC 20530, (202) 307–6200, Dated: May 28, 2008.

Appendix A

Overlap Courses

Business: Introductory.
Foreign Languages and Literature: French: Language: Business French.
Foreign Languages and Literature: French: Language: Intermediate.
Foreign Languages and Literature: German: Language: Grammar.
Foreign Languages and Literature: Italian: Language: Elementary.
Foreign Languages and Literature: Italian: Language: Intermediate.
History: Western Civilization Survey: 1500 to Present.
History: Western Civilization Survey: 1750 to Present.
History: Western Civilization Survey: Prehistory to 1715.
History: Western Civilization Survey: Prehistory to Present.
History: World History Survey: 1400 to 1750.
History: World History Survey: 1500 to Present.
History: World History Survey: Prehistory to Present.
Interdisciplinary Studies: Orientation to College.

Appendix B

Herfindahl-Hirschman Index

''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30%, 30%, 20%, and 20%, the HHI is 2600 (302 + 302 +202 + 202 = 2600). The HHI takes into account the relative size distribution of the firms in a market and approaches zero when a market consists of a large number of small firms. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be highly concentrated. See Horizontal Merger Guidelines § 1.51 (revised Apr. 8, 1997). Transactions that increase the HHI by more than 100 points in concentrated markets presumptively raise antitrust concerns under the guidelines issued by the U.S. Department of Justice and Federal Trade Commission. See id.

The United States District Court for the District of Columbia

United States of America, Plaintiff, v. Cengage Learning Holdings I, L.P., Cengage Learning Holdings II L.P., Cengage Learning, Inc., Apax/Tl Holdings, LLC, Education Media and Publishing Group Limited, and Houghton Mifflin Harcourt Publishing Company, Defendants

Case No.: Judge: Case: 1:08–Cv–00899, Assigned To: Bates, John D., Assign. Date: 5/28/2008, Description: Antitrust.

Final Judgment

Whereas, plaintiff, United States of America, filed its Complaint on May 28, 2008, and the United States and Defendants, Cengage and Houghton

Mifflin, as defined below, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

And whereas, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by the Defendants to assure that competition is not substantially lessened;

And whereas, the United States requires Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And whereas, Defendants have represented to the United States that the divestitures required below can and will be made and that Defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now Therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, *it is ordered*, Adjudged and decreed:

I. Jurisdiction

This Court has jurisdiction over the subject matter and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. ''Cengage'' means Defendants Cengage Learning Holdings I, L.P, a limited partnership with its headquarters in Stamford, Connecticut; Cengage Learning Holdings II L.P., a limited partnership with its headquarters in Stamford, Connecticut, which is controlled by Cengage Learning Holdings I, L.P.; Cengage Learning, Inc., a Delaware corporation with its headquarters in Stamford, Connecticut, which is controlled by Cengage Learning Holdings II L.P.; and Apax/TL Holdings, LLC, a Delaware limited liability company that is the general partner in Cengage Learning Holdings I, L.P.; their successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships, joint ventures; and their directors, officers, managers, agents, and employees.

B. ''Houghton Mifflin'' means Defendants Education Media and Publishing Group Limited, a Cayman Islands corporation with it headquarters in Dublin, Ireland, and Houghton Mifflin Harcourt Publishing Company, a Massachusetts corporation with its headquarters in Boston, Massachusetts, which is an indirect wholly-owned subsidiary of Education Media and Publishing Group Limited; their successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships, joint ventures; and their directors, officers, managers, agents, and employees.

C. ''Divestiture Assets'' means all of the textbooks described in Exhibit A attached hereto and associated ancillary educational materials offered or under development by any of the Defendants for use with any such textbook. Each textbook includes all versions that are customizations of, components of supplements to, derivations of, volumes that address specific subjects or periods included in the subject matter of, or brief or ''essentials'' versions of the textbook, but does not include any customized publication sold prior to the filing of the Complaint in this matter that both (i) is not authored or co-authored by any author listed in Exhibit A, and (ii) contains content from an author identified in, or a textbook described in, Exhibit A that comprises less than twenty-five (25) percent of the publisher-provided content (hereafter ''Excluded Customized Publications''). The associated ancillary educational materials include all materials in any form or format offered or under development for use with any textbook, including teacher editions or aids, excerpts, workbooks, outlines, summaries, study guides, notebooks, charts, audio, video, software, CD-ROMs, DVD-ROMs, Internet and broadcast components, all other technology components, teacher support and staff development materials, and any other materials. The associated ancillary educational materials include (i) materials that are or will be offered specifically for use with any textbook listed on Exhibit A; (ii) materials that are or will be offered primarily for use with any such textbook, meaning at least fifty (50) percent of the total units of such materials shipped in the United States during the twelve-month period prior to the filing of the Complaint in this matter were associated with the sale of any such textbook (or for materials still under development, meaning at least fifty (50) percent of the total units of such materials forecast to be shipped in the United States during the twelve-month period following development are forecast to be associated with the sale of any such textbook) (hereafter ''Category (ii) Ancillary Materials''); and (iii) a one-year, nonexclusive, royalty-free license to use materials that have been offered during the twelve-month period prior to the filing of the Complaint in this matter for use in association with any of the textbooks described in Exhibit A but are offered primarily for use with other textbooks, meaning at least fifty (50) percent of the units of such materials shipped in the United States during the twelve-month period prior to the filing of the Complaint in this matter were associated with the sale of other textbooks. (The textbooks and associated ancillary educational materials are hereafter collectively referred to as ''Divested Textbooks.'')

(1) The Divestiture Assets Include:

(a) All tangible assets used in the development, production, servicing, marketing, distribution, and sale of the Divested Textbooks, including, but not limited to, all records relating to historic and current research data and activities and development activities relating to the Divested Textbooks; all original and digital artwork, film plates, and other reproductive materials relating to the Divested Textbooks; all manuscripts, illustrations, any other content, and any revisions or revision plans thereof in print or digital form; all finished inventory; all licenses, permits and authorizations issued by any governmental organization relating to the Divested Textbooks; all contracts, teaming arrangements, agreements, commitments, certifications, and understandings relating to the Divested Textbooks, including, but not limited to, author permissions and agreements, publishing agreements, research agreements, other similar agreements, and supply and distribution agreements; all customer lists, contracts, purchase orders, accounts, and credit records, or similar records of all sales and potential sales of the Divested Textbooks; all sales support and promotional materials, advertising materials, and production, sales and marketing files relating to the Divested Textbooks; at the option of the Acquirer(s), computers and other tangible assets used primarily for the production or distribution of the Divested Textbooks; and all performance and all other records relating to the Divested Textbooks; and

(b) All intangible assets used in the development, production, servicing, marketing, distribution, and sale of the Divested Textbooks, including, but not limited to; all patents, licenses and sublicenses, intellectual property,

copyrights, contract rights, trademarks (registered and unregistered), trade names, service marks, service names, including all titles of existing products comprising or relating to the Divested Textbooks, but only including nonexclusive licenses to use the corporate trademarks or trade names of Cengage or Houghton Mifflin sufficient to allow any Acquirer to sell finished inventory or other materials that have already been marked with such trademarks or trade names; all technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, quality assurance and control procedures, and manuals used for any purpose relating to the Divested Textbooks or that Defendants provide to their own employees, customers, suppliers, agents or licensees for use in relation to the Divested Textbooks; and all other intangible research data concerning historic and current research and development efforts relating to the Divested Textbooks.

(2) The Divestiture Assets Do Not Include:

(a) Except to the extent included in the non-exclusive license of materials described in Section II.C.(1)(b), the company names, company Internet domain names, and company trademarks of Defendants or any of their affiliates, or portions or elements thereof, including, but not limited to, ''Cengage'', ''South-Western'', ''Wadsworth'', ''Brooks Cole'', ''Heinle'', ''Houghton Mifflin'', ''HM'', and ''HMCo'';

(b) Defendants' employee records that may not be produced under applicable law; and

(c) Originals of books or records, as well as the information management systems used to create and store such books and records, that Defendants are required by law to retain or that Defendants determine are necessary or advisable to retain, provided that copies of any such books or records, or data sets that can be accessed by information management systems, are provided in a form useable by the Acquirer(s), subject to customary confidentiality assurances, to any Acquirer(s) or potential Acquirer(s).

D. ''Acquirer'' or ''Acquirers'' means the entity or entities to whom Defendants divest the Divestiture Assets.

III. Applicability

A. This Final Judgment applies to Cengage and Houghton Mifflin, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. Notwithstanding any other provision of this Final Judgment, Houghton Mifflin's obligations under sections IV.A, IV.H, V.A, V.B, V.D, VI.A shall cease upon completion of its sale of the Divestiture Assets to Cengage as part of its sale to Cengage of the assets of the Houghton Mifflin College Division.

B. If prior to complying with sections IV and V of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirer(s) of the Divestiture Assets pursuant to this Final Judgment.

IV. Divestitures

A. Defendants are ordered and directed, within forty-five (45) calendar days after the filing of the Complaint in this matter, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Divestiture Assets in a manner consistent with this Final Judgment to one or more Acquirers acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed thirty (30) calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Divestiture Assets as expeditiously as possible.

B. In accomplishing the divestitures ordered by this Final Judgment, Defendants promptly shall make known, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any person making inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirer(s) and the United States the identity of any personnel responsible for any editorial content of any Divestiture Asset, and any personnel involved in the management, sale, marketing, development, design, layout, production, research, operation, delivery, distribution, acquisition or maintenance of licenses or other rights to copyrights or other intellectual property, or provision or development of seminars or training activities relating to any of the Divestiture Assets, to enable the Acquirer(s) to make offers of employment. Defendants will not interfere with any negotiations or attempts by the Acquirer(s) to employ or contract with any of Defendants' officers, directors, employees, or any other persons responsible for any such activity related to any Divestiture Asset and, if requested, will release any such person from any non-compete agreement with any of the Defendants.

D. Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel responsible for the Divestiture Assets (as described in section IV.C of this Final Judgment); and to have access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Defendants shall warrant to all Acquirers of the Divestiture Assets that each asset is complete, intact, fully functional and operational on the date of sale, provided that, for any asset that is in development at the time of sale, Defendants shall describe the extent to which the asset is complete, intact, functional and operational and project the amount of time, money and effort required to complete the development. Defendants shall warrant to all Acquirers of the Divestiture Assets that each asset has been preserved, maintained, developed, sold, and operated as required by the Asset Preservation Stipulation and Order filed simultaneously with the Court.

F. Defendants shall not take any action that will impede in any way the permitting, publication, marketing, sale, development, administration, acquisition or maintenance of related licenses or other rights to copyrights or other intellectual property, function, operation or divestiture of the Divestiture Assets. Defendants shall use their best efforts to facilitate the assignment to the Acquirer(s) of all of the tangible and intangible assets included in the Divestiture Assets that Defendants presently hold or use pursuant to a license or any other agreement.

G. Defendant Cengage shall have the right to obtain from the Acquirer(s) of the Divestiture Assets:

(1) With respect to each Excluded Customized Publication, a one-year, non-exclusive, royalty-free license to continue to include in that publication Divestiture Asset-related content;

(2) With respect to Category (ii) Ancillary Materials, a one-year, non-exclusive, royalty-free license to continue to sell such materials in association with textbooks that are not described on Exhibit A where, prior to the filing of the Complaint in this matter, such materials were sold in association with those textbooks; and

(3) With respect to copyrighted art, photographs, illustrations, charts, graphs, or other similar content that, at the time of the filing of the Complaint in this matter, were included within both the Divestiture Assets and other textbooks and products (other than content written, developed produced or copyrighted by, or otherwise attributable to, (i) any author identified in Exhibit A with respect to any course associated with that author in Exhibit A, or (ii) the author's co-authors or successor authors), a non-exclusive, royalty-free license to continue to use such content (i) in the other textbooks and products in which it is now included, (ii) in future textbooks and ancillary educational materials other than textbooks and materials offered for use in any course listed in Exhibit A, and (iii) with the permission of the Acquirer(s) of all of the Divested Assets applicable to any course listed in Exhibit A, in future textbooks and ancillary materials for use in that course.

H. Unless the United States otherwise consents in writing, the divestitures pursuant to section IV, or by trustee appointed pursuant to section V, of this Final Judgment, shall include the entire Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer(s) as part of a viable, ongoing higher education textbook publishing business. Divestiture of the Divestiture Assets may be made to one or more Acquirers, provided that in each instance it is demonstrated to the sole satisfaction of the United States that the Divestiture Assets will remain viable and the divestiture of such assets will remedy the competitive harm alleged in the Complaint. The divestitures, whether pursuant to section IV or section V of this Final Judgment:

(1) Shall be made to an Acquirer(s) that, in the United States's sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the higher education textbook publishing business; and

(2) Shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer(s) and Defendants give Defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. Appointment of Trustee

A. If Defendants have not divested the Divestiture Assets within the time period specified in section IV.A of this Final Judgment, Defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Divestiture Assets. The trustee shall have the power and authority to accomplish the divestiture to an Acquirer(s) acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to section V.D of this Final Judgment, the trustee may hire at the cost and expense of Defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestitures.

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under section VI of this Final Judgment.

D. The trustee shall serve at the cost and expense of Defendants, on such terms and conditions as the United States approves, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Defendants and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount.

E. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestitures. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the businesses to be divested, and Defendants shall develop financial and other information relevant to such businesses as the trustee may reasonably request, subject to reasonable protection for trade secrets or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestitures.

F. After its appointment, the trustee shall file monthly reports with the United States and the Court setting forth the trustee's efforts to accomplish the divestitures ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the trustee has not accomplished the divestitures ordered under this Final Judgment within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth: (1) The trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the United States, which shall have the right to make additional

recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notice of Proposed Divestitures

A. Within two (2) business days following execution of a definitive divestiture agreement, Defendants or the trustee, whichever is then responsible for effecting the divestitures required herein, shall notify the United States of any proposed divestiture(s) required by section IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify Defendants. The notice shall set forth the details of the proposed divestiture(s) and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from Defendants, the proposed Acquirer(s), any other third party, or the trustee, if applicable, additional information concerning the proposed divestiture(s), the proposed Acquirer(s), and any other potential Acquirer. Defendants and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer(s), any third party, and the trustee, whichever is later, the United States shall provide written notice to Defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture(s). If the United States provides written notice that it does not object, the divestiture(s) may be consummated, subject only to Defendants' limited right to object to the sale under section V.C of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under section IV or section V of this Final Judgment shall not be consummated. Upon objection by Defendants under section V.C, a divestiture proposed under section V shall not be consummated unless approved by the Court.

VII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to section IV or section V of this Final Judgment.

VIII. Preservation of Assets

Until the divestitures required by this Final Judgment have been accomplished, Defendants shall take all steps necessary to comply with the Asset Preservation Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestitures ordered by this Court.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestitures have been completed under section IV or section V of this Final Judgment, Defendants shall deliver to the United States an affidavit as to the fact and manner of its compliance with section IV or section V. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts Defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by Defendants, including limitations on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions Defendants have taken and all steps Defendants have implemented on an ongoing basis to comply with section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in Defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestitures have been completed.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

(1) Access during Defendants' regular office hours to inspect and copy, or at the option of the United States, to require Defendants to provide electronic or hard copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and

(2) To interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material in any such information or

documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then the United States shall give Defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition

Defendant Cengage may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

XII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry.

XIV. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States's responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date:

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16.

United States District Judge.

Exhibit A

Course	Textbooks
Business: Introductory	All textbooks that relate to the study of introduction to business with which Louis Boone has been or will be associated, and all textbooks that relate to the study of introduction to business with which David Kurtz has been or will be associated.
Foreign Languages and Literature: French: Language: Business French.	All textbooks with which Jean-Luc Penfornis has been or will be associated.
Foreign Languages and Literature: French: Language: Intermediate.	All textbooks that relate to the study of French language or literature at the intermediate level with which Michael Oates has been or will be associated, all textbooks with which Jacques Dubois has been or will be associated, all textbooks with which Simone Renaud has been or will be associated, all textbooks with which Dominique Van Hooff has been or will be associated, all textbooks that relate to the study of French language or literature at the intermediate level with which Jean-Paul Valette has been or will be associated, and all textbooks that relate to the study of French language, or literature at the intermediate level with which Rebecca Valette has been or will be associated.
Foreign Languages and Literature: German: Language: Grammar.	All textbooks with which Kimberly Sparks has been or will be associated, and all textbooks with which Van Horn Vail has been or will be associated.
Foreign Languages and Literature: Italian: Language: Elementary.	All textbooks with which Marcel Danesi has been or will be associated, and all textbooks with which Suzanne Branciforte has been or will be associated.
Foreign Languages and Literature: Italian: Language: Intermediate.	All textbooks with which Marcel Danesi has been or will be associated, and all textbooks with which Francesca Italiano has been or will be associated.
History: Western Civilization Survey: 1500 to Present.	All textbooks with which John McKay has been or will be associated.
History: Western Civilization Survey: 1750 to Present.	All textbooks with which John McKay has been or will be associated.
History: Western Civilization Survey: Prehistory to 1715.	All textbooks with which John McKay has been or will be associated.
History: Western Civilization Survey: Prehistory to Present.	All textbooks with which John McKay has been or will be associated.
History: World History Survey: 1400 to 1750	All textbooks with which John McKay has been or will be associated.
History: World History Survey: 1500 to Present	All textbooks with which John McKay has been or will be associated.
History: World History Survey: Prehistory to Present.	All textbooks with which John McKay has been or will be associated.
Interdisciplinary Studies: Orientation to College	All textbooks with which John Gardner has been or will be associated.

The United States District Court for the District of Columbia

United States of America, Plaintiff, v. Cengage Learning Holdings I, L.P., Cengage Learning Holdings II L.P., Cengage Learning, Inc., Apax/Tl Holdings, LLC, Education Media and Publishing Group Limited, and Houghton Mifflin Harcourt Publishing Company, Defendants

Case No.: Judge: Case: 1:08Cv–00899, Assigned To: Bates, John D., Assign. Date: 5/28/2008, Description: Antitrust.

Competitive Impact Statement

Plaintiff United States of America (''United States''), pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

The United States filed a civil antitrust Complaint on May 28, 2008, seeking to enjoin the proposed acquisition by Cengage Learning, Inc., and related entities (collectively ''Cengage''), of the assets of the Houghton Mifflin College Division (''HM College'') from Houghton Mifflin Harcourt Publishing Company, and a related entity (collectively ''Houghton Mifflin''). The Complaint alleges that the likely effects of this acquisition would be to substantially lessen competition in the development, publication, and sale of textbooks and ancillary educational materials (collectively ''textbooks and ancillary materials'') used in fourteen higher education courses listed in Appendix A (hereinafter ''the Overlap Courses''), in violation of section 7 of the Clayton Act, 15 U.S.C. 18. The loss of competition caused by the acquisition would likely result in a reduced rate of quality improvements in, and/or increased prices for, the textbooks and ancillary materials used in each of the fourteen courses in the United States.

At the same time the Complaint was filed, the United States also filed an Asset Preservation Stipulation and Order (''APSO'') and a proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, the Defendants are required to divest all tangible and intangible assets used in the development, production, servicing, marketing, distribution and sale of certain textbooks in the Overlap Courses and all associated ancillary educational materials (collectively ''Divestiture Assets''). Until the divestitures required by the Final Judgment have been accomplished, the APSO requires the Defendants to preserve and maintain the value of and goodwill in the Divestiture Assets, and continue to operate the Divestiture Assets as economically viable, competitive, and ongoing business properties.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violations

A. The Defendants and the Proposed Transaction

Cengage Learning, Inc. is a Delaware corporation with its headquarters in Stamford, Connecticut. Cengage Learning Holdings I, L.P., a limited partnership with its headquarters in Stamford, Connecticut, is the ultimate parent entity of Cengage Learning, Inc. Cengage Learning Holdings II L.P., a limited partnership with its headquarters in Stamford Connecticut, is an intermediate entity between Cengage Learning Holdings I, L.P. and Cengage Learning, Inc. Apax/TL Holdings, LLC, a Delaware limited liability company, is the general partner in Cengage Learning Holdings I, L.P. The above entities (collectively ''Cengage'') develop, publish and sell textbooks and ancillary materials for use in the United States and elsewhere. Cengage is the second largest publisher of textbooks and ancillary materials used in courses taught at higher education institutions in the United States and ranks among the top three sellers of such textbooks and materials for each of the Overlap Courses. Cengage had total revenues of about $1.7 billion in the twelve-month period ending September 30, 2007, including about $1 billion in revenues from the sale of higher education textbooks and ancillary materials.

Houghton Mifflin Harcourt Publishing Company (formerly Houghton Mifflin Company) is a Massachusetts corporation with its headquarters in Boston, Massachusetts. Education Media and Publishing Group Limited, a Cayman Islands corporation with its headquarters in Dublin, Ireland, is the ultimate parent entity of Houghton Mifflin Harcourt Publishing Company. The above entities (collectively ''Houghton Mifflin''), develop, publish and sell textbooks and ancillary materials for use in the United States and elsewhere. Houghton Mifflin's HM College Division is the fifth largest publisher of textbooks and ancillary materials used in courses taught at higher education institutions in the United States and ranks among the top three sellers of such textbooks and materials for each of the Overlap Courses. Houghton Mifflin has total annual revenues of about $2.5 billion, and estimated 2007 revenues of about $230 million from the sale of textbooks and ancillary materials by HM College.

On or about November 30, 2007, Cengage and Houghton Mifflin entered into an agreement for Cengage to acquire the assets of HM College for approximately $750 million.

B. The Competitive Effects of the Transaction

1. Textbooks and Ancillary Materials

Publishers market and sell textbooks and ancillary materials for use in courses taught at higher education institutions. In most cases, instructors select the textbooks and ancillary materials that will be used for their courses, and students buy the selected textbooks and ancillary materials.

Textbooks are often supplemented with ancillary educational materials, such as teacher's editions, audio-visual teaching tools, Internet content, CD–ROMs, workbooks, and study guides. These ancillary materials are often offered by publishers for free or as part of a discounted package to induce instructors to select a particular textbook and to induce students to purchase the publisher's textbooks and ancillary materials. Textbooks and ancillary materials are used as the primary teaching materials in each of the Overlap Courses.

2. Relevant Product Markets

The Complaint alleges that for each Overlap Course, the textbooks and ancillary materials for that course constitute a separate relevant product market and a line of commerce pursuant to section 7 of the Clayton Act.

Textbooks and ancillary materials are used as the primary teaching materials in each of the Overlap courses. Textbooks provide the core written material for the Overlap Courses and serve as the foundation for instructors' overall lesson plans. While instructors could use alternative teaching materials (such as copies of lecture notes and

articles), they generally select textbooks to serve as the primary teaching materials for their courses because accessing and creating alternative teaching materials is often a more time-consuming, costly, and inefficient method of delivering high quality content to their students. Instructors using textbooks and ancillary materials would not turn to any alternative teaching materials in sufficient numbers to defeat a small but significant increase in the price of any textbooks and ancillary materials for the Overlap Courses, or a small but significant decrease in the quality of such textbooks and other materials.

Students taking the Overlap Courses are unlikely to have any significant alternatives to purchasing new textbooks for their Overlap Courses. Although used textbooks, if available, can sometimes serve as alternatives for new textbooks, used textbooks are not uniformly available in large numbers. Moreover, instructors often require students to use the newest textbook editions. Publishers generally revise textbooks every three to four years, and revised textbooks often differ substantially from their prior edition, limiting the extent to which used textbooks may be substituted for new editions of the same textbooks. Students would not turn to purchasing used textbooks in sufficient numbers to defeat a small but significant increase in the price of a new edition of the textbooks.

3. Relevant Geographic Market

The Complaint alleges that Defendants market and sell textbooks and ancillary materials for use in courses taught at higher education institutions throughout the United States. Market participants for each relevant product market alleged in the Complaint are those publishers from which instructors select textbooks and ancillary materials for use as primary teaching materials in their courses. A hypothetical monopolist of the textbooks and ancillary materials sold for use in any Overlap Course in the United States could profitably lower the rate of quality improvements in, or increase the price of, such textbooks and ancillary materials in the United States. Therefore, for each relevant product market alleged in the Complaint, the United States constitutes a relevant geographic market pursuant to section 7 of the Clayton Act.

4. Anticompetitive Effects of the Acquisition

In each relevant product and geographic market alleged in the Complaint, Cengage and HM College offer leading textbooks and ancillary materials that are close substitutes for a significant number of customers in that market. In each such market, Cengage and HM College are among the few firms with a significant presence that compete to provide textbooks and ancillary materials, and together they account for at least 35 percent of all sales. Using a standard concentration measure called the Herfindahl-Hirschman Index (''HHI''), the proposed acquisition would substantially raise market concentration in highly concentrated markets, increasing the HHI by more than 500 and producing a post-merger HHI in excess of 3000 in each relevant market.

Cengage and HM College compete head-to-head to have their textbooks and ancillary materials selected by instructors for each Overlap Course in the United States. This competition has provided significant incentives for each to publish new titles and improve product quality, and it has also disciplined pricing decisions. Although textbooks are purchased by students who do not select the books, the Department's investigation revealed that when institutions and instructors request price concessions at the time they are selecting textbooks, publishers such as Cengage and HM College have competed to provide them. The proposed acquisition would eliminate the competition between Cengage and HM College in each relevant market, increasing the likelihood that Cengage will unilaterally increase prices or reduce its investment or other efforts to develop new or improved textbooks and ancillary materials.

The proposed acquisition therefore is likely to substantially lessen competition in the development, publication, and sale of textbooks and ancillary materials in each of the relevant markets alleged in the Complaint, in violation of section 7 of the Clayton Act.

5. Entry Would Not Likely Constrain the Acquisition's Adverse Effects

The Complaint alleges that, in each of the relevant product and geographic markets, there is unlikely to be timely entry by any firm that would be sufficient to defeat the likely anticompetitive effects of the proposed acquisition. Successful entry into developing, publishing, and selling textbooks and ancillary materials in each of the relevant markets is difficult, time-consuming, and costly.

Successful entry generally can be achieved only over many years and after at least one or more textbook revision cycles. Significant investment and effort are required to assemble authors, editorial staff and reviewing professors, to develop and obtain licenses to copyrighted content and ancillary educational materials, and to train a knowledgeable sales force. The outcome of any such effort would be highly uncertain, because, among other things, the reputation of a successful incumbent textbook is difficult for a publisher of a new textbook to challenge. The leading textbooks in each relevant market have been published for some time and are well-known to instructors. Most instructors switch textbooks infrequently because they develop course syllabi, lesson plans, homework, tests, and other materials that conform to the textbooks they use, and changing textbooks often requires modifications to course syllabi and other materials.

III. Explanation of the Proposed Final Judgment

A. The Required Divestitures

Section IV.A of the proposed Final Judgment requires that the Defendants divest the existing or future textbooks described in Appendix A, which are used in the Overlap Courses, and associated ancillary educational materials used with those textbooks. The Divestiture Assets may be sold to more than one acquirer with approval of the United States. Section II.C specifies that the divested textbooks include all supplements to, derivations of, and customized versions of the textbooks, except the Defendants are not required to divest existing publications that were customized for specific institutions that contain only a small amount of content (less than 25%) written by an author listed on Appendix A. The description of Divestiture Assets in Section II.C will ensure that the acquirer or acquirers shall have access to all ancillary educational materials offered with a divested textbook. The Defendants are required to divest all associated ancillary materials offered specifically or primarily for use with the textbooks. With respect to other ancillary educational materials that are offered primarily for use with Defendants' other textbooks, but are also offered with divested textbooks, the Defendants are required to grant the acquirer(s) a one-year license to use any such materials. To the extent an acquirer desires to continue to provide these other ancillary materials to instructors and students who use a divested textbook, the one-year license is intended to provide the acquirer a sufficient period of time to continue selling the

Defendants' materials while it develops substitute materials.

The Divestiture Assets also include all tangible and intangible assets related to the divested textbooks and any ancillary educational materials associated with those textbooks. For example, section II.C(1)(a) provides that the Divestiture Assets include, among other things, all original artwork, illustrations and other content, and all contracts, author permissioning agreements and other agreements related to the divested textbooks and ancillary materials. In addition, section II.C(1)(b) provides that the Divestiture Assets include, among other things, licenses and sublicenses to intellectual property of any kind that is used in the development, production, servicing, marketing, distribution, and sale of any of the divested textbooks or ancillary materials.

The Divestiture Assets do not include Defendants' company names or trademarks, except that the Divestiture Assets include nonexclusive licenses to use the corporate trademarks or trade names of Cengage or Houghton Mifflin sufficient to allow the acquirer(s) to sell finished inventory or other materials that have already been marked with such trademarks or trade names. This provision will ensure that the acquirer(s) will not infringe the Defendants' intellectual property rights in the course of distributing the finished inventory.

Sale of the Divestiture Assets according to the terms of the proposed Final Judgment will preserve competition between the textbooks and ancillary materials to be divested and the textbooks and ancillary materials that Cengage will retain and will thus eliminate the anticompetitive effects of the proposed acquisition in each relevant market alleged in the Complaint. In each of the Overlap Courses, the textbooks to be divested, alone or in combination with each other, are among the leading textbooks sold by Defendants. For several of the Overlap Courses, the Final Judgment requires the divestiture of all of the significant textbooks Cengage or HM College offers for sale. For others, the textbooks to be divested are the publications by one Defendant that are close substitutes with textbooks offered by the other Defendant, and thus as to which there is meaningful competition between Cengage and HM College that would have been eliminated by the proposed acquisition.

B. Selected Provisions of the Proposed Final Judgment

In antitrust cases involving acquisitions in which the United States seeks a divestiture remedy, the United States seeks to require completion of the divestiture(s) within the shortest period of time reasonable under the circumstances. A quick divestiture has the benefits of restoring competition lost in the acquisition and reducing the possibility that the value of the assets will be diminished. Section IV.A of the proposed Final Judgment requires the Defendants to divest the Divestiture Assets within forty-five (45) calendar days after the filing of the Complaint in this matter, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later.[*1] Section IV.H requires that the Divestiture Assets be divested in such a way as to satisfy the United States in its sole discretion that the Divestiture Assets will remain viable and can and will be operated by the acquirer(s) as part of a viable, competitively-effective, ongoing higher education textbook publishing business and that the divestiture of such assets will remedy the competitive harm alleged in the Complaint.

Sections IV.B, IV.C, IV.D, and IV.E include specific obligations and prohibitions that require the Defendants to cooperate with prospective acquirer(s) and facilitate the divestitures. Similarly, section IV.F requires the Defendants to use their best efforts to facilitate the assignment to the acquirer(s) of all assets included in the Divestiture Assets that Defendants hold or use pursuant to a license or any other agreement.

Section V.G creates a limited exception to the Defendants' obligation to divest the Divestiture Assets in their entirety by allowing Cengage to retain a nonexclusive license to certain intellectual property that is used jointly in divested textbooks and textbooks that are not being divested. Cengage has the right to obtain a one-year license to continue to include content written by an author on Appendix A in certain customized publications that are not required to be divested and to continue to sell for use with textbooks that will not be divested ancillary educational materials that are primarily, but not exclusively, used with the divested textbooks. This license is intended to allow Cengage a sufficient period of time to continue its limited use of the divested content while it develops substitute content. Cengage also has the right to a license to continue using any copyrighted art, charts or similar content that has been included in both divested textbooks and textbooks that will not be divested, other than content attributable to the authors of the divested textbooks. Cengage may continue to use this content in all existing and future textbooks and ancillary materials, except that Cengage must obtain the consent of the acquirer(s) to use the content in future textbooks or ancillary materials that will compete with the divested textbooks and ancillary materials.

Section V.A of the proposed Final Judgment provides that in the event the Defendants do not accomplish the divestitures within the periods prescribed in section IV.A of the proposed Final Judgment, the Court will appoint a trustee selected by the United States to effect the divestitures. Section IV.H requires that any sale of the Divestiture Assets by a trustee be acceptable to the United States, in its sole discretion, and specifies that any divestiture by a trustee must satisfy the same criteria that a divestiture by Defendants must satisfy. Section V.B provides that, after a trustee is appointed, only the trustee will have the right to sell the Divestiture Assets, and section V.C precludes Defendants from objecting to a sale by the trustee on any ground other than the trustee's malfeasance. Section V.E requires Defendants to use their best efforts to assist the trustee in accomplishing the divestitures.

If a trustee is appointed, section V.D provides that Defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestitures are accomplished. After his or her appointment, section V.F requires the trustee to file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the required divestitures. Section V.G requires that, if the required divestitures have not been accomplished within six (6) months after a trustee's appointment, the trustee and the United States will both make recommendations to the Court, which shall enter such orders as appropriate to carry out the purpose of the Final Judgment, which may include extending the trust or the term of the trustee's appointment.

C. The Asset Preservation Stipulation and Order

To ensure that the Divestiture Assets will be preserved, maintained, marketed, and further developed, and continue to be operated as economically viable and ongoing business properties,

[*1] The proposed Final Judgment also provides that this time period may be extended by the United States in its sole discretion for a period not to exceed thirty (30) calendar days, and that the Court will receive notice of any such extension.

until the divestitures required by the proposed Final Judgement have been accomplished, the United States and Defendants have agreed that the Court may enter the APSO that was filed simultaneously with the proposed Final Judgment.

Sections V.A and V.B of the APSO provide that Defendants are required to preserve and maintain the value and goodwill of the Divestiture Assets. Prior to the completion of the divestitures, Defendants must maintain and increase the sales and revenues of the Divestiture Asset-related products and services, and maintain all operational, promotional, developmental, advertising, sales, technical, customer-service and marketing funding and other support for the Divestiture Assets. Defendants must also ensure that the Divestiture Assets arc fully maintained in operable and saleable condition and continue to be developed and updated, and maintain and adhere to normal sales, development, updating, and support schedules for the Divestiture Assets. Section V.C requires the Defendants to provide sufficient capital to maintain the Divestiture Assets and to maintain the Divestiture Assets as economically viable, competitive, and ongoing business properties. Section V.D prevents the Defendants from transferring or otherwise disposing of the Divestiture Assets.

These asset preservation obligations should suffice to preserve competition during the brief 45-day period between consummation of the acquisition and completion of the required divestitures. Defendants will be required to continue their ongoing efforts—which have in part been stimulated by competition between them—to make improvements to the textbooks to be divested, and to maintain or increase the sales of those books. Moreover, the period between consummation and divestiture is likely to occur during the summer months when instructors do not typically select textbooks for their courses, and thus when competitive sales efforts are less meaningful.

Section VI of the APSO requires the Defendants to appoint a person or persons to oversee the implementation of Defendants' obligations under the proposed Final Judgment and the APSO. The appointed person(s) will be responsible for ensuring Defendants' compliance with the asset preservation requirements specified in section V of the APSO, will have complete managerial responsibility for the Divestiture Assets, and will have authority to direct and implement all steps necessary to ensure Defendants' full compliance with section V. Any person(s) appointed to oversee the Divestiture Assets must receive a compensation package that provides a significant incentive to increase sales of the Divestiture Assets.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against Defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of a summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: James J. Tierney, Chief, Networks & Technology Enforcement Section, Antitrust Division, United States Department of Justice, 600 E Street, NW., Suite 9500, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against the proposed acquisition. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition in the development, publication and sale of textbooks and ancillary materials in the relevant markets alleged in the Complaint. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) The impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) &; (B). In considering these statutory factors, the

court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); see generally *United States* v. *SBC Commc'ns,* Inc., 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act).[2]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See Microsoft, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); see also Microsoft, 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F.Supp. 2d 37, 40 (D.D.C. 2001). Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''within the reaches of the public interest.'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[3] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' SBC Commc'ns, 489 F.Supp. 2d at 17; see also Microsoft, 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F.Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *Am. Tel. &; Tel. Co.,* 552 F.Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F.Supp. 713, 716 (D. Mass. 1975)), aff'd sub nom. *Maryland* v. *United States,* 460 U.S. 1001 (1983); see also *United States* v. *Alcan Aluminum Ltd.,* 605 F.Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' SBC Commc'ns, 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' Microsoft, 56 F.3d at 1459. Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. Id. at 1459–60. As this Court recently confirmed in SBC Communications, courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' SBC Commc'ns, 489 F.Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' SBC Commc'ns, 489 F.Supp. 2d at 11.[4]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: May 28, 2008.

Respectfully submitted,

Jane J. Brody, Justine K. Donahue (DC Bar #476255), Aaron Comenetz (DC Bar #479572), John C. Filippini (DC Bar #165159), Kent Brown, Aaron Brodsky.

Attorneys, Networks &; Technology Enforcement Section, Antitrust Division, United States Department of

[2] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for a court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. Compare 15 U.S.C. 16(e) (2004), with 15 U.S.C. 16(e)(1) (2006); see also SBC Commc'ns, 489 F.Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[3] Cf. BNS, 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F.Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). See generally Microsoft, 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest''').

[4] See *United States* v. *Enova Corp.,* 107 F.Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

Justice, 600 E Street, NW., Suite 9500, Washington, DC 20530, (202) 307–6200.

Appendix A

Course	Textbooks
Business: Introductory	All textbooks that relate to the study of introduction to business with which Louis Boone has been or will be associated, and all textbooks that relate to the study of introduction to business with which David Kurtz has been or will be associated.
Foreign Languages and Literature: French: Language: Business French	All textbooks with which Jean-Luc Penfornis has been or will be associated.
Foreign Languages and Literature: French: Language: Intermediate	All textbooks that relate to the study of French language or literature at the intermediate level with which Michael Oates has been or will be associated, all textbooks with which Jacques Dubois has been or will be associated, all textbooks with which Simone Renaud has been or will be associated, all textbooks with which Dominique Van Hooff has been or will be associated, all textbooks that relate to the study of French language or literature at the intermediate level with which Jean-Paul Valette has been or will be associated, and all textbooks that relate to the study of French language or literature at the intermediate level with which Rebecca Valette has been or will be associated.
Foreign Languages and Literature: German: Language: Grammar	All textbooks with which Kimberly Sparks has been or will be associated, and all textbooks with which Van Horn Vail has been or will be associated.
Foreign Languages and Literature: Italian: Language: Elementary	All textbooks with which Marcel Danesi has been or will be associated, and all textbooks with which Suzanne Branciforte has been or will be associated.
Foreign Languages and Literature: Italian: Language: Intermediate	All textbooks with which Marcel Danesi has been or will be associated, and all textbooks with which Francesca Italiano has been or will be associated.
History: Western Civilization Survey: 1500 to Present	All textbooks with which John McKay has been or will be associated.
History: Western Civilization Survey: 1750 to Present	All textbooks with which John McKay has been or will be associated.
History: Western Civilization Survey: Prehistory to 1715	All textbooks with which John McKay has been or will be associated.
History: Western Civilization Survey: Prehistory to Present	All textbooks with which John McKay has been or will be associated.
History: World History Survey: 1400 to 1750	All textbooks with which John McKay has been or will be associated.
History: World History Survey: 1500 to Present	All textbooks with which John McKay has been or will be associated.
History: World History Survey: Prehistory to Present	All textbooks with which John McKay has been or will be associated.
Interdisciplinary Studies: Orientation to College	All textbooks with which John Gardner has been or will be associated.

[FR Doc. E8–13029 Filed 6–18–08; 8:45 am]
BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 13, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/*e-mail: king.darrin@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Bureau of Labor Statistics (BLS), Office of Management and Budget, 725 17th Street, NW., Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–6974 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Bureau of Labor Statistics.

Type of Review: Revision of a currently approved collection.

Title: National Longitudinal Survey of Youth 1997.

OMB Control Number: 1220–0157.

Affected Public: Individuals or households.

Estimated Number of Respondents: 7,350.

Total Estimated Annual Burden Hours: 7,360.

Total Estimated Annual Costs Burden: $0.

Description: The information obtained in this survey is used by the Department of Labor, other government agencies, academic researchers, the news media, and the general public to understand the employment experiences and school-to-work transitions of men and women born in the years 1980 to 1984. For additional information, see related notice published at 73 FR 18573 on April 4, 2008.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E8–13850 Filed 6–18–08; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 16, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number) / e-mail: *king.darrin@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Mine Safety and Health Administration (MSHA), Office of Management and Budget, 725 17th Street, NW., Room 10235, Washington, DC 20503, *Telephone:* 202–395–4816 / *Fax:* 202–395–6974 (these are not toll-free numbers), *E-mail: OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the applicable OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title of Collection: Hazard Communication—30 CFR Part 47.

OMB Control Number: 1219–0133.

Form Number: None.

Estimated Number of Respondents: 22,381.

Estimated Total Annual Burden Hours: 177,668.

Estimated Total Annual Cost Burden: $13,199.

Affected Public: Business or other for-profits (Mines).

Description: MSHA's Hazard Communication regulations at 30 CFR Part 47 require mine operators to use labels or other forms of warning necessary to inform miners of all hazards to which they are exposed, relevant symptoms and emergency treatment, and proper conditions of safe use of or exposure to hazardous chemicals. For additional information, see related notice published on April 8, 2008, at 73 FR 19104.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E8–13851 Filed 6–18–08; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations, and Variances on or before July 21, 2008.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic mail: Standards-Petitions@dol.gov.*
2. *Facsimile:* 1–202–693–9441.
3. *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.
4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.

We will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Reynolds, Office of Standards, Regulations, and Variances at 202–693–9449 (Voice), *reynolds.lawrence@dol.gov* (E-mail), or 202–693–9441 (Telefax), or contact Barbara Barron at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of

protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modifications.

II. Petitions for Modification

Docket Number: M–2008–025-C.
Petitioner: ICG Beckley, LLC, P.O. Box 49, Eccles, West Virginia 25836.
Mine: Beckley Pocahontas Mine, MSHA I.D. No. 46–05252, located in Raleigh County, West Virginia.
Regulation Affected: 30 CFR 75.1101–1(b) (Deluge-type water spray systems).
Modification Request: The petitioner requests a modification of the existing standard to permit blow-off dust covers to be eliminated for nozzles on deluge-type water spray systems. The petitioner states that: (1) Functional tests as required under 30 CFR 75.1101–1 will be done weekly instead of annually; (2) functional tests are currently being done weekly and although more than adequate pressure and flow rates are maintained for the deluge system, in some tests the dust covers do not come off all sprays; (3) by doing the functional tests weekly, all sprays can be inspected and maintained on a weekly basis; and (4) the dust covers provide protection for sprays which are tested yearly and by testing weekly, the covers are not necessary. The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection than would be provided under the existing standard.

Docket Number: M–2008–026–C.
Petitioner: Hardway Coal Company, Inc., 44 Keystroke Lane, Schuylkill Haven, Pennsylvania 17972.
Mine: Serill Mine, MSHA I.D. No. 36–07730, located in Schuylkill County, Pennsylvania.
Regulation Affected: 30 CFR 77.1200(c) & (k) (Mine map).
Modification Request: The petitioner requests a modification of the existing standard to permit the use of cross-sections in lieu of contour lines at regular intervals through the area to be mined and to limit the required mapping of mine workings below to those present within 100 feet of the vein(s) being mined. The petitioner states that: (1) Due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible; (2) use of cross-sections in lieu of contour lines has been practiced since the late 1800's thereby providing critical information relative to the spacing between veins and proximity to other mine workings which fluctuate considerably; (3) the vast majority of current surface anthracite mining involves either the mining of remnant pillars from previous mining/mine operators or the mining of veins of lower quality in proximity to inaccessible and frequently flooded abandoned mine workings which may or may not be mapped; and (4) the mine workings below are usually inactive and abandoned, and therefore, are not subject to changes during the life of the mine, but active mines will be mapped. The petitioner asserts that the proposed alternative method will in no way provide less than the same measure of protection than that afforded the miners under the existing standard.

Docket Number: M–2008–027–C.
Petitioner: Black Diamond Mining, Inc., P.O. Box 139, Elysburg, Pennsylvania 17824.
Mine: Sioux Bank Operation, MSHA I.D. No. 36–08822, located in Northumberland County, Pennsylvania.
Regulation Affected: 30 CFR 77.1200(c) & (k) (Mine map).
Modification Request: The petitioner requests a modification of the existing standard to permit the use of cross-sections in lieu of contour lines at regular intervals through the area to be mined and to limit the required mapping of mine workings below to those present within 100 feet of the vein(s) being mined. The petitioner states that: (1) Due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible; (2) use of cross-sections in lieu of contour lines has been practiced since the late 1800's thereby providing critical information relative to the spacing between veins and proximity to other mine workings which fluctuate considerably; (3) the vast majority of current surface anthracite mining involves either the mining of remnant pillars from previous mining/mine operators or the mining of veins of lower quality in proximity to inaccessible and frequently flooded abandoned mine workings which may or may not be mapped; and (4) the mine workings below are usually inactive and abandoned, and therefore, are not subject to changes during the life of the mine, but active mines will be mapped. The petitioner asserts that the proposed alternative method will in no way provide less than the same measure of protection than that afforded the miners under the existing standard.

Docket Number: M–2008–028–C.
Petitioner: Premium Fine Coal, Inc., P.O. Box 2043, Hazleton, Pennsylvania 18201.
Mine: Schuylkill Twp. Strip Operation, MSHA I.D. No. 36–08681, located in Schuylkill County, Pennsylvania.
Regulation Affected: 30 CFR 77.1200(c) & (k) (Mine map).
Modification Request: The petitioner requests a modification of the existing standard to permit the use of cross-sections in lieu of contour lines at regular intervals through the area to be mined and to limit the required mapping of mine workings below to those present within 100 feet of the vein(s) being mined. The petitioner states that: (1) Due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible; (2) use of cross-sections in lieu of contour lines has been practiced since the late 1800's thereby providing critical information relative to the spacing between veins and proximity to other mine workings which fluctuate considerably; (3) the vast majority of current surface anthracite mining involves either the mining of remnant pillars from previous mining/mine operators or the mining of veins of lower quality in proximity to inaccessible and frequently flooded abandoned mine workings which may or may not be mapped; and (4) the mine workings below are usually inactive and abandoned, and therefore, are not subject to changes during the life of the mine, but active mines will be mapped. The petitioner asserts that the proposed alternative method will in no way provide less than the same measure of protection than that afforded the miners under the existing standard.

Docket Number: M–2008–029–C.
Petitioner: Rossi Excavating Company, 9 West 15th Street, Hazelton, Pennsylvania 18201.
Mine: Coleraine Operation, MSHA I.D. No. 36–09176, located in Carbon County, Pennsylvania.
Regulation Affected: 30 CFR 77.1200(c) & (k) (Mine map).
Modification Request: The petitioner requests a modification of the existing standard to permit the use of cross-sections in lieu of contour lines at regular intervals through the area to be mined and to limit the required mapping of mine workings below to those present within 100 feet of the vein(s) being mined. The petitioner states that: (1) Due to the steep pitch encountered in mining anthracite coal

veins, contours provide no useful information and their presence would make portions of the map illegible; (2) use of cross-sections in lieu of contour lines has been practiced since the late 1800's thereby providing critical information relative to the spacing between veins and proximity to other mine workings which fluctuate considerably; (3) the vast majority of current surface anthracite mining involves either the mining of remnant pillars from previous mining/mine operators or the mining of veins of lower quality in proximity to inaccessible and frequently flooded abandoned mine workings which may or may not be mapped; and (4) the mine workings below are usually inactive and abandoned, and therefore, are not subject to changes during the life of the mine, but active mines will be mapped. The petitioner asserts that the proposed alternative method will in no way provide less than the same measure of protection than that afforded the miners under the existing standard.

Docket Number: M–2008–030–C.

Petitioner: Park Mine Coal Company, 294 Pine Creek Drive, Orwigsburg, Pennsylvania 17961.

Mine: Park Mine, MSHA I.D. No. 36–09304, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 77.1200(c) & (k) (Mine map).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of cross-sections in lieu of contour lines at regular intervals through the area to be mined and to limit the required mapping of mine workings below to those present within 100 feet of the vein(s) being mined. The petitioner states that: (1) Due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible; (2) use of cross-sections in lieu of contour lines has been practiced since the late 1800's thereby providing critical information relative to the spacing between veins and proximity to other mine workings which fluctuate considerably; (3) the vast majority of current surface anthracite mining involves either the mining of remnant pillars from previous mining/mine operators or the mining of veins of lower quality in proximity to inaccessible and frequently flooded abandoned mine workings which may or may not be mapped; and (4) the mine workings below are usually inactive and abandoned, and therefore, are not subject to changes during the life of the mine, but active mines will be mapped. The petitioner asserts that the proposed alternative method will in no way provide less than the same measure of protection than that afforded the miners under the existing standard.

Jack Powasnik,

Deputy Director, Office of Standards, Regulations, and Variances.

[FR Doc. E8–13813 Filed 6–18–08; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 10 a.m., Thursday, June 19, 2008.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Advanced Notice of Proposed Rule—Part 723 of NCUA's Rules and Regulations, Member Business Loans.

RECESS: 10:30 a.m.

TIME AND DATE: 10:45 a.m., Thursday, June 19, 2008.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Administrative Action under Sections 205 and 207 of the Federal Credit Union Act. Closed pursuant to Exemptions (8), (9)(A)(ii), and (9)(B).

2. Appeal under Section 745.202 of NCUA's Rules and Regulations. Closed pursuant to Exemption (8).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

Mary Rupp,

Secretary of the Board.

[FR Doc. E8–13646 Filed 6–18–08; 8:45 am]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

Withdrawal of Regulatory Guide

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Withdrawal of Regulatory Guide 3.42.

FOR FURTHER INFORMATION CONTACT: Stephen C. O'Connor, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–2169, or e-mail *SCO@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is withdrawing Regulatory Guide 3.42, ''Emergency Planning for Fuel Cycle Facilities and Plants Licensed Under 10 CFR Parts 50 and 70,'' which was last revised in September 1979. Regulatory Guide 3.42 provides guidance in developing emergency plans for applicants for licenses of fuel cycle facilities under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, ''Domestic Licensing of Production and Utilization Facilities,'' as well as for applicants for licenses of special nuclear material under 10 CFR Part 70, ''Domestic Licensing of Special Nuclear Material.'' The NRC is withdrawing Regulatory Guide 3.42 because no fuel cycle facilities are currently licensed under both 10 CFR Part 50 and 10 CFR Part 70. In addition, no fuel cycle facilities have an active license under 10 CFR Part 50. For fuel cycle and materials facilities licensed under 10 CFR Part 70, Regulatory Guide 3.67, ''Standard Format and Content for Emergency Plans for Fuel Cycle and Materials Facilities,'' issued January 1992, provides adequate guidance for developing emergency plans.

II. Further Information

The withdrawal of Regulatory Guide 3.42 does not, in and of itself, alter any prior or existing licensing commitments based on its use. The guidance provided in this regulatory guide no longer provides useful information. Regulatory guides may be withdrawn when their guidance is superseded by congressional action, the methods or techniques described in the regulatory guide no longer describe a preferred approach, or the regulatory guide does not provide useful information.

Regulatory guides are available for inspection or downloading through the NRC's public Web site under ''Regulatory Guides'' in the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections.* Regulatory guides are also available for inspection at the NRC's Public Document Room (PDR), Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738. The PDR mailing address is U.S. NRC PDR, Washington, DC 20555–0001. The PDR staff can be reached by telephone at 301–415–4737 or 800–397–4209, by fax at 301–415–3548, or by e-mail to *pdr@nrc.gov.*

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 13th day of June, 2008.

For the Nuclear Regulatory Commission.

Stephen C. O'Connor,

Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. E8–13868 Filed 6–18–08; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for a Revised Information Collection: Mail Reinterview Form (INV10)—Previously the Ofi 10, OMB No. 3206–0106

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the U.S. Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for clearance of a revised information collection. OPM sends the INV 10 questionnaire to a random sampling of record and personal sources contacted during background investigations when investigators have performed fieldwork. The INV 10 is used as a quality control instrument designed to ensure the accuracy and integrity of the investigative product, as it inquires of the sources about the investigative procedure employed by the investigator, the investigator's professionalism, and the information discussed and reported. In addition to the pre-formatted response options, OPM invites the recipients to respond with any other relevant comments or suggestions. A postage-paid envelope is provided with the INV 10.

Comments are particularly invited on:

- Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management and its Center for Federal Investigative Services, which administers its background investigations;
- Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology;
- Ways in which we can minimize the burden of the collection of information on those who are asked to respond, through the use of the appropriate technological collection techniques or other forms of information technology; and,
- Whether the reinterview questionnaire addresses all of the questions relevant to ensure the accuracy and integrity of the investigative product.

It is estimated that 9,600 INV 10 forms are sent to individual sources annually. Of those, it is estimated that 5,600 individuals will respond. Each form takes approximately 6 minutes to complete. The estimated annual burden is 560 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, Fax (202) 418–3251 or e-mail to *mbtoomey@opm.gov.* Please be sure to include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to: Kathy Dillaman, Associate Director, Federal Investigative Services Division, U.S. Office of Personnel Management, 1900 E Street, NW., Room 5416, Washington, DC 20415.

For Information Regarding Administrative Coordination—Contact: Mary-Kay Brewer, Program Analyst, Operational Policy Group, Federal Investigative Services Division, U.S. Office of Personnel Management, (202) 606–1835.

U.S. Office of Personnel Management.

Howard Weizmann,

Deputy Director.

[FR Doc. E8–13846 Filed 6–18–08; 8:45 am]

BILLING CODE 6325–38–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Medicare; OMB 3220–0082.

Under Section 7(d) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) administers the Medicare program for persons covered by the railroad retirement system. The RRB uses Form AA–6, Employee Application for Medicare; Form AA–7, Spouse/Divorced Spouse Application For Medicare; and Form AA–8, Widow/Widower Application for Medicare; to obtain the information needed to determine whether individuals who have not yet filed for benefits under the RRA are qualified for Medicare payments provided under Title XVIII of the Social Security Act.

Further, in order for the RRB to determine if a qualified railroad retirement beneficiary who is claiming supplementary medical insurance coverage under Medicare is entitled to a Special Enrollment Period (SEP) and/or premium surcharge relief because of coverage under an Employer Group Health Plan (EGHP), it needs to obtain information regarding the claimant's EGHP coverage, if any. The RRB uses Form RL–311–F, Evidence of Coverage Under An Employer Group Health Plan, to obtain the basic information needed by the RRB to establish EGHP coverage for a qualified railroad retirement beneficiary. Completion of the forms is required to obtain a benefit. One response is requested of each respondent.

The RRB proposes no changes to Forms AA–6, AA–7 and AA–8. The RRB proposes revision of Form RL–311–F to add a new item which asks if the employee is still working. This information is being added to clarify the employment status of the employee and is needed to determine the Special Enrollment Period. The RRB estimates that 180 Form AA–6's, 50 Form AA–7's, 10 Form AA–8's, and 800 RL–311–F's are completed annually. The completion time for Forms AA–6, AA–7 and AA–8 is estimated at 8 minutes. The completion time for Form RL–311–F is estimated at 10 minutes.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV*. Comments regarding the information collection should be addressed to Ronald J.

Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or send an e-mail to *Ronald.Hodapp@RRB.GOV*. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E8–13901 Filed 6–18–08; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57959; File No. SR–DTC–2006–16]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Amended Proposed Rule Change Amending FAST and DRS Limited Participant Requirements for Transfer Agents

June 12, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] notice is hereby given that on October 12, 2006, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') and on March 29, 2007, and May 3, 2007, amended proposed rule change No. SR–DTC–2006–16. On May 25, 2007, the Commission published notice of the proposed rule change as amended by Amendment 1 and Amendment 2.[2] On December 31, 2007, DTC filed a third amendment to proposed rule change. On February 20, 2008, the Commission published notice of the proposed rule change as amended by Amendment 3.[3] The Commission received 27 comment letters to the proposed rule change as amended by Amendments 1 and 2 and 10 comment letters on Amendment 3.[4] On May 31, 2008, DTC filed Amendment 4. The Commission is publishing this notice to solicit comments from interested parties on the proposed rule change as amended by Amendments 1, 2, 3, and 4 and as described in Items I, II, and III below, which items have been prepared primarily by the DTC.[5]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC proposes to amend its rules to update, standardize, and restate the requirements for the Fast Automated Securities Transfer Program (''FAST''), to delineate the responsibilities of DTC and the transfer agents with respect to the securities held by transfer agents as part of the FAST program, and to restate the requirements for transfer agents participating in the Direct Registration System (''DRS''). Specifically, in this fourth amendment to SR–DTC–2006–16, DTC proposes to amend FAST Agent No. 1 requirement and FAST Agent No. 9 requirement.

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 DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[6]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Prior to the establishment of the FAST program, transfers of securities to or from DTC occurred by sending securities back and forth between DTC and transfer agents. In the case of securities being deposited with DTC, DTC sent the certificates to the transfer agent for registration into the name of DTC's nominee, Cede & Co., and the transfer agent returned the reregistered certificates to DTC. In the case of securities being withdrawn from DTC, DTC sent the certificates registered in the name of Cede & Co. to the transfer agent for reregistration into the name designated by the withdrawing DTC participant, and the transfer agent returned the reregistered security to DTC for delivery to the withdrawing participant. This process exposed securities to risk of loss during transit between DTC and transfer agents and resulted in the expense of making physical deliveries of securities.

Under the FAST program, transfer agents hold FAST-eligible securities registered in the name of Cede & Co. in the form of balance certificates. As additional securities are deposited or withdrawn from DTC, transfer agents adjust the denomination of the balance certificates as appropriate and electronically confirm theses changes with DTC. Such ''FAST agents'' are holding in custody those securities that would otherwise be held at DTC for the benefit of DTC's participants. As such, the FAST program reduces the movement of certificates between DTC and the transfer agents and therefore reduces the costs and risks associated with the creation, movement, and storing of certificates to DTC, DTC participants, issuers, and transfer agents.[7]

The FAST program has grown substantially since first being introduced in 1975.[8] Recent changes in the rules of the major securities exchanges are expected to further accelerate this growth.[9] Those exchange rules require as a listing prerequisite that issues be eligible for processing through DRS. Since becoming a FAST agent is a criterion for a transfer agent's eligibility for participation in DRS, DTC anticipates significant growth in the FAST program.

DRS allows an investor to hold a security as the registered owner in electronic form on the books of the transfer agent rather than holding through the use of a certificate or holding indirectly through a financial intermediary (*e.g.*, a broker-dealer) that holds the security in ''street name.'' DRS also allows for the transfer of a DRS position from the books of the transfer agent to a DTC broker-dealer participant through the facilities of DTC using FAST.[10]

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 55816 (May 25, 2007), 72 FR 30648 (June 1, 2007) [File No. SR–DTC–2006–16].

[3] Securities Exchange Act Release No. 57362 (February 20, 2008), 73 FR 10849 (February 28, 2008) [File No. SR–DTC–2006–16].

[4] The comment letters can be found at *http://www.sec.gov/comments/sr-dtc-2006–16/dtc200616.shtml*.

[5] The exact text of the DTC's proposed rule change can be found at *www.dtc.org/impNtc/mor/index.html#2006*.

[6] The Commission has modified portions of the text of the summaries prepared by the DTC.

[7] For a description of DTC's current rules relating to FAST, see Securities Exchange Act Release Nos. 13342 (March 8, 1977) [File No. SR–DTC–76–3]; 14997 (July 26, 1978) [File No. SR–DTC–78–11]; 21401 (October 16, 1984) [File No. SR–DTC–84–8]; 31941 (March 3, 1993) [SR–DTC–92–15]; and 46956 (December 6, 2002) [File No. SR–DTC–2002–15].

[8] DTC introduced the FAST program in 1975 with 400 issues and 10 agents. Currently, there are over 930,000 issues and approximately 90 agents in FAST.

[9] Securities Exchange Act Release Nos. 54289 (August 8, 2006), 71 FR 47278 (August 16, 2006) [File No. SR–NYSE–2006–29]; 54290 (August 8, 2006), 71 FR 47262 (August 16, 2006) [File No. SR–Amex–2006–40]; 54288 (August 8, 2006), 71 FR 47276 (August 16, 2006) [File No. SR–NASDAQ–2006–08]; 54410 (September 7, 2006), 71 FR 54316 (September 14, 2006) [File No. SR–NYSE Arca–2006–31]; 55482 (March 15, 2007), 72 FR 13547 (March 22, 2007) [File No. SR–Phlx–2006–69]; 55481 (March 15, 2007), 72 FR 13546 (March 22, 2007) [File No. SR–CHX–2006–33]; and 55480 (March 15, 2007), 72 FR 13544 (March 22, 2007) [File No. SR–BSE–2006–46].

[10] For a description of DTC's rules relating to DRS, see Securities Exchange Act Release Nos. 37931 (November 7, 1996) [File No. SR–DTC–96–15]; 41862 (September 10, 1999) [File No. SR–DTC–

1. Proposed Amendments to DTC's FAST Requirements

Despite the FAST program's robust past growth and expected future growth, the transfer agent eligibility requirements for FAST have not substantially changed since the implementation of FAST and do not: (i) Take into account the increased volume and value of securities processed by the transfer agents; (ii) reflect improved technology and currently available safeguards which would enhance the safekeeping of securities held by the transfer agents on behalf of DTC; and (iii) require the use of standardized audit reports to certify transfer agents' processes and controls.

In light of the FAST program's growth, DTC reexamined the requirements of the FAST program with a view toward ensuring that DTC's assets in the custody of transfer agents, which ultimately belong to DTC's participants and their customers, are adequately protected. As more fully described below, DTC has identified aspects of the FAST program that need revising or additional requirements. The proposed revisions and additional requirements include: (i) Insurance requirements that take into account transaction volumes of securities processed by transfer agents; (ii) safekeeping requirements to clarify and to enhance security and fire protection standards and to take into consideration technological advances that allow for economical security improvements; and (iii) bookkeeping requirements to ensure compliance with applicable laws and regulations and use standardized audit reports addressing transfer agents' processes and controls.

DTC is therefore proposing to amend and to restate the minimum requirements for transfer agents participating in the FAST program in order to improve the safekeeping of securities transfer agents hold for DTC and to provide better defined requirements as more transfer agents participate in the immobilization and dematerialization of securities. DTC's proposed minimum requirements are as follows:

1. Transfer agent must be registered with the Commission or their appropriate regulatory authority, except where the transfer agent's participation in the FAST program is limited to acting solely for municipal issues or unlisted corporate debt issues (transfer agents must provide DTC with evidence of such) and follow all applicable rules under the Exchange Act, as well as all other applicable federal and state laws, rules, and regulations, applicable to transfer agents, including OFAC regulations. DTC is proposing to amend FAST Requirement No. 1 from the version previously filed with the Commission in order to add an exemption for transfer agents acting solely for unlisted corporate debt from having to register as a transfer agent for purposes of complying with DTC's proposed rule.

2. The transfer agent must execute and fulfill the requirements of the appropriate form of ''Balance Certificate Agreement'' [11] with DTC.[12]

3. The transfer agent must sign and fulfill requirements of the ''Operational Criteria for the FAST Transfer Agent Processing'' [13] and must comply with all applicable provisions of DTC's ''Operational Arrangements'' (''OA''),[14] as amended from time to time.[15]

4. In order to provide for the operational proficiency and efficiency of the program, the transfer agent must complete DTC's training on FAST functionality on being accepted as a FAST transfer agent.

5. In order to protect against a risk of loss, the transfer agent must carry and provide evidence of a minimum of the following standard form Financial Institution Bond or a commercial crime policy providing similar coverage in proportion to transaction volume the agent processes, as follows:

a. $10 million for a transfer agent with 25,000 or fewer transfer transactions per year as reported to the Commission;

b. $25 million for a transfer agent with over 25,000 transfer transactions per year as reported to the Commission; and

c. In addition, the transfer agent must carry and provide evidence of a minimum of $1 million in Errors and Omissions insurance.

In the event that a transfer agent can demonstrate that its existing coverage and/or capitalization would provide similar protections to DTC as the requirements set forth herein, it may apply to DTC for a waiver. DTC shall have sole discretion as to whether or not to grant any such waiver.

6. In order to facilitate consistent protection against losses relating to securities in a transfer agent's control, the transfer agent must notify DTC as soon as practicable of notice of any actual lapse in insurance coverage or change in business practices, such as increasing volumes or other business changes that would result in the transfer agent requiring additional insurance coverage as outlined above. Such notice shall be delivered to: DTC, Inventory Management—1SL, 55 Water Street, New York, New York 10041.

And with a copy to: DTC, General Counsel's Office, 55 Water Street—22nd Floor, New York, New York 10041.

7. The transfer agent must provide proof to DTC of any new or substitute policy with respect to any required insurance within five (5) days after the entry into force of such new or substitute policy.

8. The transfer agent must establish and maintain electronic communications with DTC to balance FAST positions on a daily schedule.

9. The transfer agent must provide on an annual basis to DTC within ten (10) business days of filing with the Commission, a copy of the Annual Study of Evaluation of Internal Accounting Control filed with the Commission pursuant to Exchange Act Rule 17Ad–13, attesting to the soundness of controls. If a transfer agent obtains a SAS–70 audit report, the transfer agent shall provide DTC with a copy of the report within ten (10) business days of the transfer agent's receipt of the report. DTC is proposing to amend FAST Requirement No. 9 from the version previously filed with the Commission in order to clarify that a submission to DTC of a copy of the Annual Study of Evaluation of Internal Accounting Control attesting to the soundness of controls as required in Exchange Act Rule 17Ad–13 is sufficient and to eliminate the requirement that certain transfer agents must provide an SSAE–10 to DTC.

10. FAST agents must safeguard all the securities assets as stated under

99–16]; 42366 (January 28, 2000) [File No. SR–DTC–00–01]; 42704 (April 19, 2000) [File No. SR–DTC–00–04]; 43586 (November 17, 2000) [File No. SR–DTC–00–09]; 44969 (August 14, 2001) [File No. SR–DTC–2001–07]; 45232 (January 3, 2002) [SR–DTC–2001–18]; 45430 (February 11, 2002) [File No. SR–DTC–2002–01]; 48885 (December 5, 2003) [File No. SR–DTC–2002–17]; and 52422 (September 14, 2005) [File No. SR–DTC–2005–11].

[11] DTC currently maintains three forms of the Balance Certificate Agreement: One for transfer agents, one for issuers acting as their own agent, and one for parties using a processing agent. DTC is consolidating these forms into a single form, as attached as Exhibit 2 to its initial filing.

[12] DTC notes that these minimum requirements incorporate by reference the Balance Certificate Agreement between the transfer agent and DTC.

[13] The Operational Criteria for the FAST Transfer Agent Processing is attached as Exhibit 2(b) to DTC's initial filing.

[14] For more information relating to DTC's OA, see Securities Exchange Act Release Nos. 45994 (May 29, 2002), 67 FR 39452 [File No. SR–DTC–2002–02]; 24818 (August 19, 1987), 52 FR 31833 [File No. DTC–87–10]; 25948 (July 27, 1988), 53 FR 29294 [File No. DTC–88–13]; 30625 (April 23, 1992), 57 FR 18534 [File No. DTC–92–06]; 35649 (April 26, 1995), 60 FR 21576 [File No. DTC–94–19]; and 39894 (April 21, 1998), 63 FR 23310 [File No. DTC–97–23].

[15] DTC notes that these minimum requirements incorporate by reference the Operational Criteria for FAST Transfer Agent Processing and all applicable terms in DTC's Operational Arrangements.

Exchange Act Rule 17Ad–12, with at a minimum the following additional DTC requirements:

a. Maintain a theft and fire central monitoring alarm system protecting the entire premises and

b. Maintain all certificates in a vault, safe, or other secure location, accessible only by authorized personnel.

11. Personnel with access to the safe and the codes for the centralized monitoring system must comply with Exchange Act Rule 17f–2, which includes but is not limited to rules for fingerprinting staff that physically handle certificates.

12. Unless prohibited by applicable law, the transfer agent when applying to be a FAST agent must provide DTC with a copy of the two most recent deficiency or compliance correspondences from the Commission as well as any follow-up correspondences. In addition, unless prohibited by applicable law, the transfer agent on an ongoing basis must provide DTC with notice of any alleged material deficiencies documented by the Commission that may affect the activities of the transfer agent as a FAST Agent within five (5) business days of the transfer agent being notified of such material deficiencies.

13. Unless prohibited by applicable law, during regular business hours and upon advance notice, DTC reserves the right to visit and inspect, to the extent such visits and inspections pertain to DTC's position, the transfer agent's facilities, books, and records. DTC, however, is not obligated to conduct such visits or inspections.

14. Existing FAST agents shall have a period of six (6) months from the date of the Commission's approval of this rule filing to comply with these requirements, including the submission to DTC of a signed Balance Certificate Agreement, signed Operational Criteria, and all supporting documentation referenced herein. If an agent is not compliant with these requirements upon the expiration of such period, DTC shall have the right, using its sole discretion, to terminate or to continue the agent's FAST status.

15. An agent acting on behalf of a transfer agent or an issuer acting on its own behalf shall have the same rights and responsibilities under these requirements as if it were the transfer agent.

2. Proposed Amended and Restated Eligibility Requirements for DRS Limited Participants

DTC is proposing the following restatement of the eligibility requirements for DRS Limited Participants [16] and the DRS eligibility requirements for DRS issues to promote consistency with the FAST program requirements as well as to further ensure the soundness of the DRS system.

In order to be eligible to be a DRS Limited Participant, a transfer agent must:

1. Participate in the FAST program and abide by DTC's requirements governing participation in the FAST program, which requirements are proposed to be amended by this filing;

2. Execute a DTC Limited Participant Account agreement;

3. Deliver transaction advice directly to investors relating to DRS Withdrawal-by-Transfer requests and provide DTC with a file containing the information required by DTC (which must include, among other things, the transaction advice delivery date) in a format and using functionality as specified by DTC from time to time;

4. Complete DTC's training program on DRS and Profile Modification System (''Profile'') functionality;

5. Participate in the Profile surety or insurance program to initiate Profile transactions; [17]

6. Implement program changes related to DTC internal systems modifications within a reasonable time upon receiving notification from DTC of such modifications;

7. Implement program changes to support and expand DRS processing capabilities as agreed to by the DRS Ad Hoc Committee; and

8. Existing DRS Limited Participants shall have a period of six (6) months from the date of the Commission's approval of this rule filing within which they must comply with these requirements. If an agent is not compliant with these requirements upon the expiration of such period, DTC shall have the right using its sole discretion to terminate or to continue the agent's status as a DRS Limited Participant.

3. Eligibility Requirements for DRS Issues

In order for an issue to be eligible as a DRS issue, the issue must:

1. Have a transfer agent accepted as a DTC DRS Limited Participant; and

2. Be included in the FAST program. (An issue may not be added to DRS if ''out of balance'' positions exist.)

4. DTC's Proposed Standard of Care Obligations With Respect to FAST

DTC is proposing to establish a clearer demarcation of responsibility and liability with respect to the FAST program. Historically, DTC believes the Commission has left to user-governed clearing agencies the question of how to allocate losses associated with, among other things, clearing agency functions.[18] In conjunction with its approval of these standards, the Commission noted that while it had ''called on registered clearing agencies to undertake, by rule, to deliver all fully-paid securities in their control to, or as directed by, the participant for whom the securities are held,'' given that registered clearing agencies had demonstrated a high level of responsibility in safeguarding securities and funds, a standard of care based on a strict standard of liability was not required either with respect to failures of the clearing agency or a sub-custodian. DTC notes that securities in the FAST program are held by a transfer agent and are not within the immediate custody and control of DTC. As such, after a transfer agent is accepted to the FAST program, DTC is proposing the addition of a clarifying provision to Rule 6 to state that DTC will not be liable for the acts or omissions of FAST Agents or other third parties, unless caused directly by DTC's gross negligence, willful misconduct, or violation of federal securities laws for which there is a private right of action. In addition, DTC proposes that under no circumstance shall DTC be liable for selecting or accepting any third party as an agent of DTC, including a transfer agent participating in the FAST Program.

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act, as amended,[19] and the rules and regulations thereunder because it improves standards relating to the eligibility of transfer agents and issues for its FAST and DRS programs. As

[16] DRS Limited Participants are transfer agents that participate in DRS through DTC. They are bound to certain provisions of the DTC rules. Securities Exchange Act Release No. 37931 (November 7, 1996) [File No. SR–DTC–96–15].

[17] In DRS, instructions to transfer shares are sent by a broker-dealer that is a DTC Participant or by a transfer agent that is a DRS Limited Participant through Profile. Profile provides screen based indemnification against false instructions from the party submitting the instructions through DRS. The indemnity is supported by either a surety bond or an insurance policy.

[18] Securities Exchange Act Release Nos. 20221 (September 23, 1983) and 22940 (February 24, 1986). In this regard, DTC adopted a uniform standard with respect to certain of its procedures, or Service Guides, such that DTC is not liable for any loss incurred by a participant other than one caused directly by gross negligence or willful misconduct on the part of DTC. See Securities Exchange Act Release No. 44719 (August 17, 2001) [File No. SR–DTC–2001–01].

[19] 15 U.S.C. 78q–1.

such, it assures the safeguarding of securities and funds which are in the custody or control of DTC or for which it is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC 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

DTC has neither solicited nor received written comments on the proposed rule change.[20]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization 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–DTC–2006–16 in the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–DTC–2006–16. 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 Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3:30 p.m. Copies of such filings also will be available for inspection and copying at the principal office of the DTC and on the DTC's Web site, *www.dtcc.com*. 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–DTC–2006–16 and should be submitted on or before July 10, 2008.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[21]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–13853 Filed 6–18–08; 8:45 am]

BILLING CODE 8010–01–P

[20] The Commisson received 27 comment letters to DTC's proposed rule change as amended by Amendments 1 and 2. The Commission received an additional 10 comment letters to DTC's proposed rule change as amended by Amendment 3. The comment letters can be found at http://www.sec.gov/comments/sr-dtc-2006-16/dtc200616.shtml.

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57963; File No. SR–OCC–2008–08]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Its Facilities Management Agreements

June 13, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 9, 2008, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend OCC Rule 309 to permit expedited review of a managed clearing member's request to operate without a facilities management agreement.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to provide an expedited process for reviewing a managed clearing member's request to operate without a facilities management agreement (''FMA''). [3]

Under OCC Rule 309(e), a managed clearing member that desires to terminate an FMA must withdraw from membership on the business day before the proposed termination unless the Membership/Risk Committee (''Committee'') has determined in accordance with Article V, section 1 of OCC's By-laws either that the managed

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] Article V, Section 1 of OCC's By-laws, including the Interpretations and Policies thereunder, set forth the requirements for membership. Interpretation and Policy .04 permits an applicant for clearing membership (''managed clearing member'') to meet specified membership requirements by entering into an FMA with another clearing member (''managing clearing member'') pursuant to which managing clearing member would perform certain of the applicant's obligations as a clearing member (''managed services''). An operationally capable clearing member also may elect to outsource certain of its obligations as a clearing member, and thereby, become a managed clearing member. OCC Rule 309(f).

clearing member has the operational capability, experience and competence to perform the managed services required of a clearing member or the managed clearing member has entered into another acceptable FMA that will be effective on or before such proposed termination.

From March, 2006 to February, 2008, the Committee reviewed three requests to terminate FMAs, all of which were approved. In each case, the managed clearing member was required to defer terminating its FMA until the next regularly scheduled Committee meeting. To provide for a more timely review of certain FMA terminations, OCC proposes to adopt a new Interpretation and Policy .02 under Rule 309. Under the new policy, a managed clearing member desiring to terminate its FMA would be permitted to request an expedited review. If OCC consents to an expedited review,[4] the Chairman, the Management Vice Chairman, or the President would be authorized to determine whether, as specified in Rule 309(e), a managed clearing member had the operational capability, experience, and competency to perform the managed services required of a clearing member, and to approve or disapprove the termination.

At the next regularly scheduled Committee meeting, the Committee would independently review de novo whether the managed clearing member met the requirements of Rule 309(e) and determine whether or not to approve the FMA's termination. Notwithstanding that, if the Committee modifies or reverses the action taken by the Chairman, the Management Vice Chairman, or the President, any actions taken by OCC or the clearing member prior to the modification or reversal would not be invalidated and no rights of any person arising out of such actions would be affected. In the unlikely event that the Committee disapproved of a termination previously approved by OCC, the clearing member would be given a reasonable time either to establish another FMA or to withdraw from membership.

This proposal is comparable to a process recently approved by the Commission which permits the expedited review of requests by operationally capable clearing members that desire to outsource certain of their clearing member obligations by entering into FMAs.[5] OCC believes that the rationale for giving senior management the authority to approve FMAs on an interim basis applies equally to FMA terminations. The proposal strikes a reasonable balance between meeting the business requirements of clearing members and continuing to ensure appropriate review of their operational capabilities.

OCC believes that the proposed change is consistent with the Act because it promotes the prompt and accurate clearance and settlement of securities transactions by providing an expedited review process for the termination of FMAs as proposed by managed clearing members. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization 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–OCC–2008–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2008–08. 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 OCC and on OCC's Web site at *http://www.theocc.com/publications/rules/proposed_changes/sr_occ_08_08.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–OCC–2008–08 and should be submitted on or before July 10, 2008.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[6]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–13855 Filed 6–18–08; 8:45 am]

BILLING CODE 8010–01–P

[4] OCC would use the expedited review process for FMA terminations only in cases that present no significant or novel issues. Requests involving complex issues would be presented to the Committee at its next regularly scheduled meeting.

[5] Interpretation & Policy .01 to Rule 309. *See also* Securities Exchange Act Release No. 57535 (March 20, 2008), 73 FR 16086 (March 26, 2008) [SR–OCC–2008–01].

[6] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Disaster Declaration #11284 and #11285

California Disaster #CA–00084

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of California dated 06/12/2008.

Incident: Wildland Fire.

Incident Period: 05/22/2008 through 05/30/2008.

EFFECTIVE DATE: 06/12/2008.

Physical Loan Application Deadline Date: 08/11/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 03/12/2009.

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:

Santa Cruz.

Contiguous Counties:

California:

Monterey, San Benito, San Mateo, Santa Clara.

The Interest Rates are:

Homeowners With Credit Available Elsewhere: 5.375

Homeowners Without Credit Available Elsewhere: 2.687

Businesses With Credit Available Elsewhere: 8.000

Businesses & 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 11284 5 and for economic injury is 11285 0.

The State which received an EIDL Declaration # is California.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: June 12, 2008.

Jovita Carranza,

Acting Administrator.

[FR Doc. E8–13871 Filed 6–18–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11286 and #11287]

Indiana Disaster #IN–00019

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Indiana (FEMA–1766–DR), dated 06/11/2008.

Incident: Severe Storms, Flooding, and Tornadoes

Incident Period: 05/30/2008 and continuing.

EFFECTIVE DATE: 06/11/2008.

Physical Loan Application Deadline Date: 08/11/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 03/11/2009.

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 President's major disaster declaration on 06/11/2008, 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 (Physical Damage and Economic Injury Loans):

Bartholomew, Hancock, Johnson, Marion, Monroe, Morgan, Vermillion, Vigo.

Contiguous Counties (Economic Injury Loans Only):

Indiana: Boone, Brown, Clay, Decatur, Fountain, Greene, Hamilton, Hendricks, Henry, Jackson, Jennings, Lawrence, Madison, Owen, Parke, Putnam, Rush, Shelby, Sullivan, Warren.

Illinois: Clark, Edgar, Vermilion.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.375
Homeowners Without Credit Available Elsewhere	2.687
Businesses With Credit Available Elsewhere	8.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 112866 and for economic injury is 112870.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–13869 Filed 6–18–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11281]

Indiana Disaster Number IN–00020

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Indiana (FEMA–1766–DR), dated 06/08/2008.

Incident: Severe Storms, Flooding, and Tornadoes.

Incident Period: 05/30/2008 and continuing.

Effective Date: 06/11/2008.

Physical Loan Application Deadline Date: 08/07/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of INDIANA, dated 06/08/2008, is hereby amended to re-establish the incident period for this disaster as beginning 05/30/2008 and

continuing. The incident type is also amended and is now severe storms, flooding, and tornadoes.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–13870 Filed 6–18–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 6269]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Aztec World''

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 ''The Aztec World'', imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Field Museum, Chicago, Illinois, from on or about October 31, 2008, until on or about April 19, 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 Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8048). The address is U.S. Department of State, SA–44, 301 4th Street, SW. Room 700, Washington, DC 20547–0001.

June 12, 2008.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–13885 Filed 6–18–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6268]

Culturally Significant Objects Imported for Exhibition Determinations: ''Tutankhamun and the Golden Age of the Pharaohs''

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 ''Tutankhamun and the Golden Age of the Pharaohs,'' 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. This exhibit toured the United States from 2005 to 2007, left for foreign exhibition, and now returns to new venues with slightly changed objects. I also determine that the exhibition or display of the exhibit objects at the Dallas Museum of Art from on or about October 5, 2008, until on or about May 15, 2009; at the M. H. de Young Memorial Museum, San Francisco, from on or about June 20, 2009, to on or about March 15, 2010; at the Brooklyn Museum of Art, New York, from on or about April 23, 2010, to on or about January 1, 2011, 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 Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8048). The address is U.S. Department of State, SA–44, 301 4th Street, SW. Room 700, Washington, DC 20547–0001.

Dated: June 12, 2008.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–13884 Filed 6–18–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Aviation Insurance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. The requested information is included in air carriers' applications for insurance when insurance is not available from private sources.

DATES: Please submit comments by August 18, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Aviation Insurance.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0514.

Forms(s): There are no FAA forms associated with this collection.

Affected Public: A total of 76 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 58 hours per response.

Estimated Annual Burden Hours: An estimated 4,394 hours annually.

Abstract: The requested information is included in air carriers' applications for insurance when insurance is not available from private sources.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information

is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 11, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E8–13758 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Financial Responsibility for Licensed Launch Activities

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. Information will be used to determine if licensees have complied with financial responsibility requirements (including maximum probable loss determination) as set forth in FAA regulations.

DATES: Please submit comments by August 18, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Financial Responsibility for Licensed Launch Activities.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0601.

Forms(s): There are no FAA forms associated with this collection.

Affected Public: A total of 2 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden Per Response: Approximately 300 hours per response.

Estimated Annual Burden Hours: An estimated 600 hours annually.

Abstract: Information will be used to determine if licensees have complied with financial responsibility requirements (including maximum probable loss determination) as set forth in FAA regulations.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 11, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E8–13759 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Organization Designation Authorization—Part 183, Subpart D

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. Certain organizations may apply to perform certification functions on behalf of the FAA. These functions may include approving data, issuing various kinds of aircraft and organization certificates, and other functions.

DATES: Please submit comments by August 18, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Organization Designation Authorization—Part 183, Subpart D.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0704.

Forms(s): 8100–11, 8100–12, 8100–13.

Affected Public: A total of 83 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 41.5 hours per response.

Estimated Annual Burden Hours: An estimated 7,228 hours annually.

Abstract: Certain organizations may apply to perform certification functions on behalf of the FAA. These functions may include approving data, issuing various kinds of aircraft and organization certificates, and other functions.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 11, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E8–13760 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Hazardous Materials Training Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. The FAA is amending its hazardous materials training requirements, requiring that certain repair stations provide documentation showing that persons handling hazmat for transportation have been trained following DOT guidelines.

DATES: Please submit comments by August 18, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Hazardous Materials Training Requirements.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0705.

Forms(s): There are no FAA forms associated with this collection.

Affected Public: A total of 2,772 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 1.27 hours per response.

Estimated Annual Burden Hours: An estimated 6,900 hours annually.

Abstract: The FAA is amending its hazardous materials training requirements, requiring that certain repair stations provide documentation showing that persons handling hazmat for transportation have been trained following DOT guidelines.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 11, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E8–13761 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Survey of Airman Satisfaction With Aeromedical Certification Services

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. This survey assesses airman opinion of key dimensions of service quality.

DATES: Please submit comments by August 18, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Survey of Airman Satisfaction with Aeromedical Certification Services.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0707.

Forms(s): There are no FAA forms associated with this collection.

Affected Public: A total of 4,800 Respondents.

Frequency: The information is collected as needed.

Estimated Average Burden per Response: Approximately 15 minutes per response.

Estimated Annual Burden Hours: An estimated 1,200 hours annually.

Abstract: This survey assesses airman opinion of key dimensions of service quality. These dimensions, identified by the OMB Statistical Policy Office, are courtesy, competence, reliability, and communication.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 11, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E8–13762 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Rotorcraft External Load Operator Certificate Application

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. 14 CFR part 133 was adopted to establish certification rules and application requirements governing non passenger-carrying rotorcraft external-load operations conducted for compensation or hire.

DATES: Please submit comments by August 18, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Rotorcraft External Load Operator Certificate Application.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0044.

Forms(s): 87 10–4.

Affected Public: A total of 4,000 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden Per Response: Approximately 2.25 hours per response.

Estimated Annual Burden Hours: An estimated 3,268 hours annually.

Abstract: 14 CFR 133 was adopted to establish certification rules and application requirements governing non passenger-carrying rotorcraft external-load operations conducted for compensation or hire.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 11, 2008.

Carla Mauney,

Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E8–13764 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; General Aviation and Air Taxi Activity and Avionics Survey

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. This information is used by FAA for safety assessment, planning, forecasting, cost/benefit analysis, and to target areas for research.

DATES: Please submit comments by August 18, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: General Aviation and Air Taxi Activity and Avionics Survey.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0060.

Form(s): 1800–54.

Affected Public: A total of 30,000 respondents.

Frequency: The information is collected annually.

Estimated Average Burden per Response: Approximately 20 minutes per response.

Estimated Annual Burden Hours: An estimated 10,000 hours annually.

Abstract: Respondents to this survey are owners of general aviation aircraft. This information is used by FAA for safety assessment, planning, forecasting, cost/benefit analysis, and to target areas for research.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments Are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 11, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E8–13767 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Use of Certain Personal Oxygen Concentrator (POC) Devices on Board Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comrnents about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. The rule requires passengers who intend to use an approved POC to present a physician statement before boarding.

DATES: Please submit comments by August 18, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Use of Certain Personal Oxygen Concentrator (POC) Devices on Board Aircraft.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0702.

Forms(s): There are no FAA forms associated with this collection.

Affected Public: A total of 1,735,000 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 6 minutes per response.

Estimated Annual Burden Hours: An estimated 172,694 hours annually.

Abstract: The rule requires passengers who intend to use an approved POC to

present a physician statement before boarding. The flight crew must then inform the pilot-in-command that a POC is on board.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 11, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E8–13768 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; FAA Airport Master Record

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request that the Office of Management and Budget (OMB) approve a current information collection. The information is required to carry out FAA missions related to the aviation industry, flight planning, and airport engineering.

DATES: Please submit comments by August 18, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA).

Title: FAA Airport Master Record.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0015.

Form(s): 5010–1, 5010–2, 5010–3, 5010–5.

Affected Public: A total of 19,345 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden Per Response: Approximately 27 minutes per response.

Estimated Annual Burden Hours: An estimated 8,770 hours annually.

Abstract: 49 U.S.C. 329(b) directs the Secretary of Transportation to collect information about civil aeronautics. The information is required to carry out FAA missions related to the aviation industry, flight planning, and airport engineering. The database is the basic source of data for private, state, and Federal government aeronautical charts and publications.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments Are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 11, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E8–13778 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review; Piedmont Triad International Airport, Greensboro, NC

AGENCY: Federal Aviation Administration, DOT.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the Noise Exposure Maps submitted by the Piedmont Triad Airport Authority for Piedmont Triad International Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act) and 14 CFR 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed Noise Compatibility Program that was submitted for Piedmont Triad International Airport under Part 150 in conjunction with the Noise Exposure Map, and that this program will be approved or disapproved on or before December 7, 2008.

EFFECTIVE DATE: The effective date of the FM's determination on the Noise Exposure Maps and of the start of its review of the associated Noise Compatibility Program is June 10, 2008. The public comment period ends August 9, 2008.

FOR FURTHER INFORMATION CONTACT: Dana Perkins, Federal Aviation Administration, Atlanta ADO, FAA Southern Region Airports District Office, 1701 Columbia Avenue, College Park, Georgia 30337–2747, (404) 305–7152. Comments on the proposed Noise Compatibility Program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This Notice announces that the FAA finds that the Noise Exposure Maps submitted for Piedmont Triad International Airport are in compliance with applicable requirements of Part 150, effective June 10, 2008. Further, FAA is reviewing a proposed Noise Compatibility Program for that Airport which will be approved or disapproved on or before December 7, 2008. This notice also announces the availability of this Program for public review and comment.

Under 49 U.S.C., Section 47503 (the Aviation Safety and Noise Abatement Act (the Act)), an airport operator may submit to the FAA Noise Exposure Maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed

in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted Noise Exposure Maps that are found by FAA to be in compliance with the requirements of Part 150, promulgated pursuant to the Act, may submit a Noise Compatibility Program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

Piedmont Triad Airport Authority submitted to the FAA on May 7, 2008 Noise Exposure Maps, descriptions and other documentation that were produced during the Piedmont Triad International Airport FAR Part 150 Study conducted between March, 2003 and April 30, 2008. It was requested that the FAA review this material as the Noise Exposure Maps, as described in Section 47503 of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a Noise Compatibility Program under Section 47504 of the Act.

The FAA has completed its review of the Noise Exposure Maps and related descriptions submitted by Piedmont Triad Airport Authority. The specific documentation determined to constitute the Noise Exposure Maps includes: Figure 5, DNL Contours Base Case NEM 2006, p. 19; Table 10, Incompatible Land Uses (2006) Piedmont Triad International Airport Based on Updated Operations Forecast, p. 20; Table 16, Incompatible Land Uses (2014) with NCP Based on Operational Alternative 2C Piedmont Triad International Airport Based on Updated Operations Forecast, p. 63; Figure 15, DNL Contour 2014 NEM with NCP Measures (Final 2014 Forecast A Alternative 2C), p. 65; Table A–3, Existing Condition (2006) Yearly Average Daily Aircraft Operations by User Group Piedmont Triad International Airport Updated Operations Forecast, p. 98; Table A–4 Existing Condition (2006) Yearly Average Daily Aircraft Operations by INM Aircraft Type Piedmont Triad International Airport Updated Operations Forecast, p. 99; Table A–5, Runway Use 2006 Piedmont Triad International Airport, p. 101; Figure A–2, Departure Flight Tracks 2006 Base Case p. 102; Figure A–3, Arrival Flight Tracks 2006 Base Case, p. 103; Table A–6, Flight Track Use-2006 Piedmont Triad International Airport, p. 104; Figure A–4, Departure Flight Tracks 2014 Base Case, p. 110; Figure A–5, Arrival Flight Tracks 2014 Base Case, p. 111; Table A 12, Future Condition (2014) Yearly Average Daily Aircraft Operations by INM Aircraft Type Piedmont Triad International Airport Updated Operations, pp 114–115; Table A 13, Runway Use 2014 NEM with NCP (Alternative 2C) Piedmont Triad International Airport, p. 116; Figure A–6 FedEx Departure Flight Tracks NEM with NCP (Alternative 2C), p.118; Table A–14, Flight Track Use-2014 NEM with NCP (Alternative 2C) Piedmont Triad International Airport, p. 119; Table A–16, Runway Use 2014 Alternatives 2A, 2B, 2C, and 2D Piedmont Triad Airport, p122; Figure A–9, FedEx Departure Flight Tracks Alternatives 2C, 3C, and 2D, p. 128; Table A–20 Flight Track Use-2014 Alternative 2C Piedmont Triad International Airport, p.131. The FAA has determined that these maps for Piedmont Triad International Airport are in compliance with applicable requirements. This determination is effective on June 10, 2008. FAA's determination on the airport operator's Noise Exposure Maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the airport operator's data, information or plans, or a commitment to approve a Noise Compatibility Program or to fund the implementation of that Program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a Noise Exposure Map submitted under Section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise exposure contours, or in interpreting the Noise Exposure Maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of Noise Exposure Maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 47503 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the Noise Compatibility Program for Piedmont Triad International Airport, also effective on June 10, 2008. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of Noise Compatibility Programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before December 7, 2008.

The FAA's detailed evaluation will be conducted under the provisions of Part 150, Section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the Noise Exposure Maps, the FAA's evaluation of the maps, and the proposed Noise Compatibility Program are available for examination at the following locations: Federal Aviation Administration, Atlanta ADO, FAA Southern Region, 701 Columbia Avenue, Campus Bldg., Suite 2–260, College Park, GA 30337–2747.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in College Park, Georgia, June 10, 2008.

Scott L. Seritt,

Manager, Atlanta Airports District Office.

[FR Doc. E8–13540 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review for Marana Regional Airport, Marana, AZ

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted for Marana Regional Airport under the provisions of 49 U.S.C. 47501 *et seq.* (the Aviation Safety and Noise Abatement Act, hereinafter referred to as 'the Act'') and 14 CFR Part 150 by the Town of Marana, Arizona. This program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR Part 150 for Marana Regional Airport were in compliance with applicable requirements, effective December 7, 2007 (72 FR 71475). The proposed noise compatibility program will be approved or disapproved on or before December 3, 2008.

EFFECTIVE DATE: The effective date of the start of FAA's review of the noise compatibility program is June 6, 2008. The public comment period ends August 5, 2008.

FOR FURTHER INFORMATION CONTACT: Michelle Simmons, Environmental Protection Specialist, Airports Division, LAX–ADO–600.2, Federal Aviation Administration, Western Pacific Region. Mailing Address: P.O. Box 92007, Los Angeles, California, 90009–20007: Street Address: 15000 Aviation Boulevard, Hawthorne, California, 90261: Telephone Number (310) 725–3614. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for Marana Regional Airport which will be approved or disapproved on or before December 3, 2008. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has formally received the noise compatibility program for Marana Regional Airport, effective on June 6, 2008. The airport operator has requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 47504 of the Act. Preliminary review of the submitted material indicates that it conforms to FAR Part 150 requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before December 3, 2008.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety or create an undue burden on interstate or foreign commerce, and whether they are reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments relating to these factors, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, National Headquarters, Planning and Environmental Division, APP–400, 800 Independence Avenue, SW., Room 621 Washington, DC 20591;

Federal Aviation Administration, Western-Pacific Region Office, Airports Division, Room 3012 15000 Aviation Blvd, Room 3000, Hawthorne, CA, 90261;

Federal Aviation Administration, Los Angeles Airports District Office, 15000 Aviation Blvd, Room 3000, Hawthorne, CA, 90261;

Charles Mangum, Aviation Director, Marana Regional Airport, 11700 W. Avra Valley Road, # 91, Marana, Arizona 85633.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Hawthorne, California on June 6, 2008.

Mark A. McClardy,

Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. E8–13541 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review; McCarran International Airport, Las Vegas, NV

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted for McCarran International Airport (LAS) under the provisions of 49 U.S.C. 47504 *et seq.* (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR Part 150 by Clark County, Nevada. This program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR Part 150 for LAS were in compliance with applicable requirements, effective July 10, 2007 (72 FR 40357). The proposed noise compatibility program will be approved or disapproved on or before December 6, 2008.

EFFECTIVE DATE: The effective date of the start of FAA's review of the noise compatibility program is June 9, 2008. The public comment period ends August 8, 2008.

FOR FURTHER INFORMATION CONTACT: David B. Kessler, AICP, Regional Environmental Protection Specialist, Federal Aviation Administration, Western Pacific Region, P.O. Box 92007, Los Angeles, CA 90009–2007, Telephone 310/725–3615. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for LAS, which will be approved or disapproved on or before December 6, 2008. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with

the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has formally received the noise compatibility program for LAS, effective on June 9, 2008. The airport operator has requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 47504 of the Act. Preliminary review of the submitted material indicates that it conforms to FAR Part 150 requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before December 6, 2008.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety or create an undue burden on interstate or foreign commerce, and whether they are reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments relating to these factors, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, National Headquarters, Planning and Environmental Division, APP–400, 800 Independence Avenue, SW., Room 615E, Washington, DC 20591;

Federal Aviation Administration, Western-Pacific Region Office, Airports Division, Room 3012, 15000 Aviation Boulevard, Hawthorne, California 90261;

Federal Aviation Administration, Western Pacific Region, San Francisco Airports District Office, 831 Mitten Road, Suite 210, Burlingame, California 94010;

Randall H. Walker, Director of Aviation, Clark County Department of Aviation, P.O. Box 11005, Las Vegas, Nevada 89111–1005.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Hawthorne, California on June 9, 2008.

Winsome A. Lenfert,

Acting Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. E8–13542 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Bristol County, MA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Cancellation of the Notice of Intent.

SUMMARY: This notice rescinds the previous Notice of Intent (issued October 9, 1985) to prepare an Environmental Impact Statement for a proposed bridge replacement project—the Elm St and Center St (Berkley-Dighton) Bridge over the Taunton River—in Bristol County, Massachusetts.

FOR FURTHER INFORMATION CONTACT: John McVann, Field Operations Team Leader, Federal Highway Administration, Massachusetts Division Office, 55 Broadway, 10th floor, Cambridge, MA 02142, Telephone: (617) 494–2521—or—Diane Madden, Sr. Project Manager, Massachusetts Highway Department, Environmental Services, 10 Park Plaza, Room 4260, Boston, MA 02116, Telephone (617) 973–7477.

SUPPLEMENTARY INFORMATION: The proposed project has changed dramatically from the mid-1980s when FHWA determined that except for the historical aspects of the project the proposed action would be classified as a categorical exclusion. Early proposals including new fixed bridges over 20' in height on northern or southern alignment, negatively impacting the adjacent Bridge Village National Register-eligible Historic District. In 2000, noting extensive changes in the district close to the bridge, FHWA concurred with a MassHighway petition to de-list the district, which was later redrawn, retaining the bridge as a contributing element. Early in 2006, MassHighway presented its current proposal to acclaim, proposing to replace the bridge on its existing alignment, providing a Temporary Bridge on southern alignment to allow public safety mutual aid and vehicular travel. The proposed fixed bridge will be 7 feet taller than the existing movable bridge in closed position. This proposal reduces impacts to the surrounding area, including the re-drawn Bridge Village National Register-eligible Historic District. For these reasons, FHWA believes that the proper class of action for the current proposal is a Categorical Exclusion.

Richard J. Marquis,

Assistant FHWA Division Administrator, Cambridge, MA.

[FR Doc. E8–13495 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

[Docket Number FRA–2008–0064]

Applicant: Portland and Western Railroad, Inc., Mr. Paul A. Zalec, Vice President Passenger Operations, 650 Hawthorne Avenue, SE., Suite 220, Salem, Oregon 97301.

The Portland and Western Railroad, Inc. (PWRR) seeks relief from the requirements of the Rules, Standards, and Instructions, Title 49 CFR, Part 236, Section 236.513(a), Audible Indicator, for its planned Wilsonville to Beaverton commuter rail project, to the extent that PWRR be permitted to utilize a cab signal system that does not contain any onboard acknowledgment device beyond the acknowledgment received from movement of brake control(s). The location of the request is from Wilsonville, Oregon, on the former Oregon Electric Railway, Oregon Electric Subdivision milepost (MP) 42.8 to Beaverton, OR, Tillamook District, MP 755.50, a distance of approximately 15.3 route miles.

Applicant's justification for relief: It is proposed to provide a momentary audible indication when a more restrictive aspect is received, but not require a manual acknowledgement of that audible indication. The onboard automatic train control system continually monitors the operator's adherence to the existing speed limit, provides an alarm if the speed limit is being violated, and applies an irrevocable penalty brake application if the operator does not act appropriately to safely bring the speed of the train below the speed limit. Eliminating the need for acknowledgement in favor of continuous speed enforcement eliminates confusion on the part of the operator.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and it shall contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning these proceedings should be identified by Docket Number FRA–2008–0064 and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and 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 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC, on June 16, 2008.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E8–13892 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

National Railroad Passenger Corporation

[Waiver Petition Docket Number FRA–2008–0065]

The National Railroad Passenger Corporation (Amtrak) seeks a waiver of compliance from the *Passenger Equipment Safety Standards,* 49 CFR Part 238.309, and the *Locomotive Safety Standards,* 49 CFR Parts 229.27 and 229.29, as they pertain to the requirements to clean, repair and test airbrake equipment associated with twenty-one HHP–8 electric locomotives equipped with Computer Controlled Brake (CCB–KE–3.9) manufactured by Knorr Brake Corporation.

The twenty-one locomotives are operated over Amtrak's North East Corridor and maintained by Amtrak, fifteen of these locomotives are owned by Amtrak, and five are owned by the Maryland Transit Administration (MTA). Amtrak requests allowing the brake system periodic maintenance to go beyond the 5-year period (1,840 days) previously granted by waiver for Amtrak (FRA–2001–10596) and for MTA (FRA–2007–28611). Amtrak feels that because the KE–3.9 brake system employs real time self monitoring of the locomotive brake performance, age exploration for periodic brake valve maintenance is appropriate.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number 2008–0065) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and 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 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC on June 16, 2008.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E8–13882 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. A **Federal Register** Notice soliciting public comment on the ICR, with a 60-day comment period, was published on January 11, 2008 at 73 FR 2077.

DATES: Comments must be submitted to OMB on or before July 21, 2008.

FOR FURTHER INFORMATION CONTACT: David Coleman, Office of Vehicle Safety Compliance (NVS–223), West Building—Room W43–488, 1200 New Jersey Avenue, SE., Washington, DC 20590 (202–366–5302).

SUPPLEMENTARY INFORMATION: National Highway Traffic Safety Administration.

Title: Manufacturer Identification.

OMB Number: 2127–0043.

Type of Request: Extension of a Currently Approved Collection.

Abstract: The National Highway Traffic Safety Administration (NHTSA) has requested OMB to extend that agency's approval of the information collection that is incident to NHTSA's administration of the regulation at 49 CFR part 566 that requires manufacturers of U.S. market motor vehicles and motor vehicle equipment subject to the Federal motor vehicle safety standards administered by NHTSA, to identify themselves and their products to NHTSA.

Affected Public: All manufacturers of motor vehicles, and all manufacturers of motor vehicle equipment, other than tires, to which a motor vehicle safety standard applies.

Estimated Total Annual Burden: 25 minutes of one staff member's time for each new U.S. manufacturer, or for each manufacturer revising information previously submitted to the agency. In the last year, NHTSA received information from approximately 200 manufacturers. Allowing 25 minutes per manufacturer, the time for all U.S. market manufacturers was approximately 83 burden hours. Allowing for an average U.S. business cost to draft letters of $60.00 per hour, the total yearly cost to comply with 49 CFR Part 566's requirements was $4,980.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility.
- Whether the Department's estimate of the burden of the proposed information collection is accurate.
- Ways to enhance the quality, utility and clarity of the information to be collected.
- Ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued on: June 13, 2008.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E8–13872 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Actions on Special Permit Applications

AGENCY: Pipeline And Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on Special Permit Applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the actions on special permits applications in (October to April 2008). The mode of transportation involved are identified by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger–carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Special Permits. It should be noted that some of the sections cited were those in effect at the time certain special permits were issued.

Issued in Washington, DC, on June 4, 2008.

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

S.P. No.	Docket No.	Applicant	Regulation(s)	Nature of special permit thereof
Modification Special Permit Granted				
14190–M	PHMSA–21262	Cordis Corporation, Miami Lakes, FL.	49 CFR 172.200, 172.300, 172.400.	To modify the special permit to authorize the transportation in commerce of certain Division 4.1 hazardous materials.
14516–M	PHMSA–28468	FedEx Express, Baton Rouge, LA.	49 CFR 175.75(d), 172.203(a), 172.301(c).	To modify the special permit to waive the requirement to carry a copy of the permit on every aircraft.
11513–M		ATK Launch Systems Inc. (Former Grantee: ATK Thiokol, Inc.), Brigham City, UT.	49 CFR 172.101, 173.52, 173.54.	To modify the special permit to authorize the use of static free plastic dividers instead of individual static free inner packagings.

S.P. No.	Docket No.	Applicant	Regulation(s)	Nature of special permit of thereof
13107–M	RSPA–13276	Sensors, Inc., Saline, MI	49 CFR 172 Subparts C and G.	To modify the special permit to authorize the discharge of a Division 2.1 material from an authorized DOT specification cylinder without removing the cylinder from the vehicle on which it is transported.
11526–M		Linde North America, Inc. Former Grantee: BOC Gases), Murray Hill, NJ.	49 CFR 172.302(c), (2), (3), (4), (5); 173.34(e)(1), (3), (4), (8); 173.34(15)(vi).	To modify the special permit to authorize larger cylinders.
14563–M	PHMSA–29093	The Procter & Gamble Distributing LLC, Cincinnati, OH.	49 CFR 171.8 and 173.306(a)(3).	To modify the special permit to extend the date for the one-time, one-way, transportation in commerce of certain non-DOT specification metal receptacles containing Division 2.1 material as Consumer commodity, ORM–D by motor vehicle for disposal only.
10232–M		ITW Sexton (Former Grantee: Sexton Can Company, Inc.), Decatur, AL.	49 CFR 173 .304	To modify the special permit to authorize a capacity increase to 61 cubic inches of the non-refillable, non-DOT specification container for the transportation of Division 2.2 materials.
14419–M		Voltaix, North Branch, NJ	49 CFR 173.181(a)	To modify the special permit to authorize an increase in cylinder capacity.
12102–M	RSPA–4005	Veolia ES Technical Solutions, L.L.C., Flanders, NJ.	49 CFR 173.56(i); 173.56(b).	To modify the special permit to authorize transportation by common or contract carrier of an additional Class 1 explosive material desensitized by wetting with water, alcohol or other suitable diluent so as to eliminate their explosive properties.
7954–M		Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.301(d)(2); 173.302(a)(3).	To modify the special permit to authorize the transportation in commerce of certain Division 2.3 gases in 3T cylinders.
12562–M	RSPA–8306	Taeyang Industrial Company Ltd., Cheonan-City.	49 CFR 173.304(d)(3)(ii)	To modify the special permit to authorize an additional Division 2.2 hazardous material.
13599–M	RSPA–18712	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.304a(a)(2)	To modify the special permit to authorize an increase in fill densities/ratios for the DOT Specification seamless steel cylinders transporting a Division 2.2 material.
12405–M	RSPA–6766	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.304(a)(2); 173.304(b).	To modify the special permit to make it consistent with other similar special permits regarding marking tube trailers.
14608–M	PHMSA–070081	Ultimate Adventure Ballooning, LLC, Washington, MO.	49 CFR 173.304	To reissue the special permit originally issued on an emergency basis for the transportation in commerce of non-DOT specification tanks that contain propane.
14318–M	PHMSA–23861	Lockheed Martin Corporation (Former Grantee: Lockheed-Martin Technical Operations), Columbiana, OH.	49 CFR 173.315	To modify the special permit to clarify the requirement for a dedicated enclosed metal sided truck.
11544–M		DS Containers, Inc., Batavia, IL.	49 CFR 173.306(a)(3)(v)	To modify the special permit to authorize additional non-DOT specification containers.
14568–M	PHMSA–29130	Department of Defense, Ft. Eustis, VA.	49 CFR 173.431	To reissue the special permit originally issued on an emergency basis for the transportation in commerce of portable nuclear gauges containing certain radioactive materials exceeding the quantity that may be transported in a Type A packaging.
13207–M		BEI, Honolulu, HI	49 CFR 173.32(f)(5)	To modify the special permit to authorize additional portable tanks for the transportation in commerce of sulfuric acid.
8215–M		Olin Corporation, Brass and Winchester, Inc., East Alton, IL.	49 CFR Part 172, Subpart E; 172.320; 173.62(c); 173.212; 172.504(e).	To modify the special permit to authorize the use of a Division 1.1 placard.
14333–M	PHMSA–0624382	The Columbiana Boiler Co., Columbiana, OH.	49 CFR 179.300–13(b)	To modify the special permit to authorize a new design in securing/sealing hex plugs.
11818–M		ITT Industries Space Systems, LLC, Rochester, NY.	49 CFR 180.205	To modify the special permit to authorize the transportation in commerce of an additional Division 2.2 gas and to increase the maximum width of capillary pumped loops.

S.P. No.	Docket No.	Applicant	Regulation(s)	Nature of special permit of thereof
14638–M	PHMSA–080027	Teledyne Energy Systems, Inc., Hunt Valley, MD.	49 CFR 173.213	To reissue the special permit originally issued on an emergency basis for the transportation in commerce of up to two pressure vessels containing Magnesium or Magnesium alloys under an Argon blanket further packaged in a non-DOT specification wooden box capable of meeting the performance requirements for PG II and to remove the one time restriction.
New Special Permit Granted				
14597–N	PHMSA–0048	The Columbiana Boiler Co., Columbiana, OH.	49 CFR 173.314	To authorize the transportation in commerce of anhydrous ammonia in a DOT 110 multi unit tank car tank. (modes 1, 2, 3)
14598–N	PHMSA–0049	Tremcar USA, Inc., Saint-Jean-sur-Richelieu, CN.	49 CFR 178.345	To authorize the use of an alternative material in the manufacture of cargo tank components. (mode 1)
14599–N	PHMSA–0047	State of New York, Department of Health, Albany, NY.	49 CFR 171.2(k)	To authorize the transportation in commerce of packagings identified as infectious substances, Category B, which are actually non-hazardous for purposes of shipping and packaging drills conducted through New York State to evaluate bioterrorism, chemical terrorism and pandemic influenza preparedness. (modes 1, 2, 3, 4, 5)
14600–N	PHMSA–0050	McLane Company, Inc., Temple, TX.	49 CFR 173.308	To authorize the transportation in commerce of up to 5,000 lighters manufactured by BIC Corporation per motor vehicle not subject to the requirements of Subparts C through H of Part 173 and part 177 in its entirety. (mode 1)
14601–N	PHMSA–0045	Precision Combustion Technology, LLC, Gonzales, LA.	49 CFR 173.302a	To authorize the manufacture, marking, sale and use of a non-DOT specification pressure vessel for the transportation in commerce of boron trifluoride. (modes 1, 2, 3)
14602–N	PHMSA–0051	Lockheed Martin Space Systems Company, Sunnyvale, CA.	49 CFR 173.304a, 173.301, 172.101 Table Column (9B).	To authorize the transportation in commerce of anhydrous ammonia in non-DOT specification packaging. (modes 1, 2, 3, 4)
14603–N	PHMSA–0046	Yi Wu Huan Qiu Can Manufacture, Yiwu City, Zhejiang.	49 CFR 173.304(d), 173.306(a)(3) and 178.33a.	To authorize the manufacture, marking, sale and use of non-DOT specification inner nonrefillable metal receptables similar to DOT specification 2Q containers for certain Division 2.2 materials. (modes 1, 2, 3, 4)
14611–N		Honeywell International, Inc., Morristown, NJ.	49 CFR 178.44	Authorizes the manufacture, marking and sale of a non-DOT specification pressure vessel comparable to a DOT–3HT cylinder for the transportation of compressed helium subject to the limitations and special requirements specified. (modes 1, 4)
14613–N	PHMSA–0079	Valero St. Charles, Norco, LA.	49 CFR Subpart C of Part 172.	To authorize the transportation in commerce of certain hazardous materials without shipping paper documentation when transported across public roads within the Valero facility. (mode 1)
14615–N	PHMSA–0071	SET Environmental Inc., Houston, TX.	49 CFR 173.244	To authorize the one-time, one-way transportation in commerce of three- irregularly-shaped sodium disperson vessels in alternative packaging. (mode 1)
14617–N	PHMSA–0070	Western International Gas & Cylinders, Inc., Bellville, TX.	49 CFR 172.302(a), 172.301(c), 180.205(f)(4), 180.205(g), 180.209(a).	To authorize the transportation in commerce of certain compressed gases in DOT specification 3A and 3AA cylinders when retested by 100 percent ultrasonic examination and external visual inspection in lieu of internal visual inspection and the hydrostatic retest. (modes 1, 2, 3, 4, 5)
14618–N	PHMSA–0073	Carrier Transicold, Athens, GA.	49 CFR 177.834(1)(2)(i)	To authorize the use cargo of heaters in a motor vehicle when transporting flammable liquids or flammable gases in commerce. (mode 1)
14620–N	PHMSA–0068	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 177.834(h)	To authorize filling and discharging fo a DOT Specification 4L cylinder with certain Division 2.2 compressed gases without removal from the transport vehicle. (mode 1)
14623–N	PHMSA–0084	Formulated Solutions, Clearwater, FL.	49 CFR 173.306(a)(3)(v)	To authorize the manufacture, marking, sale and use of a bag-on-valve container for the transportation of non-flammable aerosols which have been tested by an alternative method in lieu of the hot water bath test. (modes 1, 2, 3, 4, 5).

S.P. No.	Docket No.	Applicant	Regulation(s)	Nature of special permit of thereof
14624–N	PHMSA–0098	INOCOM Inc., Dalsung–gun,.	49 CFR 173.302a,	To authorize the manufacture, 173.304a and marking, sale and use of non-Daegu Korea 180.205 DOT specification fiber reinforced plastic (FRP) full composite (FC) cylinders for the transportation in commerce of certain Division 2.1 and 2.2 compressed gases. (modes 1, 2, 3, 4, 5)
14625–N	PHMSA–0097	Sun & Skin Care Research, Inc., Cocoa, FL.	49 CFR 173.306(a)(3)(v)	To authorize the transportation in commerce of an aerosol in certain non-refillable containers which have been tested by an alternative method in lieu of the hot water bath test. (modes 1, 2, 3, 4, 5)
14627N	PHMSA–0095	American Spraytech, North Branch, NJ.	49 CFR 173.306(a)(3)(v)	To authorize the transportation in commerce of certain aerosols containing a Division 2.2 compressed gas in certain non-refillable aerosol containers which are not subject to the hot water bath test. (mode 1)
14630–N	PHMSA–0007	Dow Agrosciences LLC, Indianapolis, IN.	49 CFR 172.302(a); 172.504(a).	To authorize the transportation in commerce of Division 6.1 liquid fumigants in non-DOT specification cargo tanks equipped with an alternative pressure relief system. (mode 1)
14631–N	PHMSA–0009	iSi Automotive, GmbH Austria.	49 CFR 173.301, 173.301, 173.302a and 173.305.	To authorize the manufacture, marking, sale and use of non-DOT specification cylinders for certain hazardous materials for use as components of safety systems. (modes 1, 2, 3, 4, 5)
14640–N	PHMSA–080034	Chem Service, Inc., Chester County, PA.	49 CFR 173.4(a)(11)	To authorize the transportation in commerce of certain PG I hazardous materials that are not authorized for transportation aboard passenger-carrying aircraft under the small quantity provisions of 49 CFR 173.4. (modes 4, 5)
14641–N	PHMSA–0080024	Conocophillips Alaska, Inc., Anchorage, AK.	49 CFR 172.101 Hazardous Materials Table Column (9B).	To authorize the transportation in commerce by air of certain hazardous materials in packagings that exceed the quantity limit for cargo carrying aircraft. (mode 4)
14644–N	PHMSA–08–0032	El Aero Services, Inc., Elko, NV.	49 CFR 172.101 HMT Column (9B), 172.200, 172.300, 172.400.	To authorize the transportation in commerce of certain hazardous materials by cargo aircraft only in remote areas of the U.S. without being subject to hazard communication requirements and quantity limitations. (mode 4)
14648–N	PHMSA–080038	Pacific Bio-Material Management, Inc., dba Pacific Scientific Transport, Fresno, CA.	49 CFR 173.196(b); 173.196(e)(2)(ii).	To authorize the transportation in commerce of certain infectious substances in specially designed packaging (freezers). (mode 1)
14650–N	PHMSA–08–0036	Air Transport International, L.L.C., Little Rock, AR.	49 CFR 172.101; 171.11; 172.204(c)(3); 173.27; 175.30(a)(1); 175.320(b).	To authorize the transportation in commerce of certain Division 1.1, 1.2, 1.3 and 1.4 explosives which are forbidden or exceed quantities presently authorized. (mode 4)
14656–N		PurePak Technology Corporation, Chandler, AZ.	49 CFR 173.158(f)(3)	To authorize the transportation in commerce of nitric acid up to 70% concentration in an alternative packaging configuration. (modes 1, 2, 3)
14670–N		Flexcon Industries, Randolph, MA.	49 CFR 173.302a; 172.301(c); 173.306(g)(2).	49 CFR § 173.302a in that non-DOT specification cylinders are not authorized, except as provided herein; § 173.306(g)(2) in that pneumatic pressure testing is not performed on every cylinder; and § 172.301(c) in that the marking requirements are waived.
Emergency Special Permit Granted				
EE 14579–M		Summitt Environmental, Inc. (Summit), Wake Village, TX.	49 CFR 173.304a	1st Rev, issued as an emergency modification to grant additional time. (mode 1)
EE 14589–M	PHMSA–080026	Florida Power and Light Co., Jensen Beach, FL.	49 CFR 173.403, 173.427(b), 173.465(c) and (d).	To modify the special permit by implementing a barrier access to a localized area by installing a wire screen that will remain in place during transport and only allow access to radiation levels permitted by the HMR. (mode 1)
EE 14526–M		Kidde Aerospace, Wilson, NC.	49 CFR 173.302a	To reissue the special permit originally issued on an emergency basis for the transportation in commerce of a Division 2.2 compressed gas in a non-DOT specification cylinder similar to a DOT–-39 for transportation by motor vehicle. (modes 1, 3)

S.P. No.	Docket No.	Applicant	Regulation(s)	Nature of special permit of thereof
EE 14684–M	.....	A.O. Smith Corporation, Milwaukee, WI.	49 CFR 173.302a	To modify the special permit by waiving the placarding requirements in Part 172, Subpart F. (mode 1)
EE 14596–N	PHMSA–080013	Lynden Transport, Houston, TX.	49 CFR 172.300, 172.301(c), 172.400, and 173.62.	To authorize the emergency, one-time transportation in commerce of approximately 50 damaged DOT specification packages, some with obscured marking or labeling, that contain 1.4D explosive materials. The packages would be moved from OK to the shipper's facility in Irving, TX.
EE 14606–N	.....	California State, local, tribal and Federal Gov't officials and persons conducting operations under the direction of those government officials, CA.	49 CFR Parts 171 through 180, except as specified.	This emergency special permit authorizes the transportation in commerce of hazardous materials used to support the Southern California wildland fire recovery efforts. (mode 1)
EE 14607–N	.....	Bayer Crop Science LP, Research Triangle Park, NC.	49 CFR 172.302(c) in that marking the SP number is waived; 173.32(a)(2) in that the SP would allow the one-time transportation of portable tanks that have been filled past their retest due date; 177.801 in that the motor carriers would be authorized to accept the 4 tanks not in accordance with the regulations; and 180.605, in that portable tanks filled past their retest due date would be authorized for one trip.	This emergency special permit authorizes the one-way transportation in commerce of 4 DOT IM 101 portable tanks that were filled beyond the required 2.5-year reinspection period. (mode 1)
EE 14608–N	PHMSA–070081	Ultimate Adventure Ballooning, LLC, Washington, MO.	49 CFR 173.304 in that the packaging is a non-DOT specification tank..	To authorize the transportation in commerce of non-DOT specification tanks that contain propane. (mode 1)
EE 14610–N	PHMSA–070053	3M Company, St. Paul, MN.	49 CFR 173.56	To authorize the one-time, one-way transportation in commerce of stainless steel UN31A intermediate bulk containers containing a liquid hazardous material that may meet the definition for explosive material as Resin solution, Class 3. (mode 1)
EE 14634–N	PHMSA–080025	Teck Cominco, Alaska Incorporated, Anchorage, AK.	49 CFR 173.159(c)(1)	To authorize the one-time, one-way transportation in commerce of a forklift battery pack in non-DOT specification packaging by cargo only aircraft. (mode 4)
EE 14635–N	PHMSA–080028	Brainerd Chemical Co., Inc., Tulsa, OK.	49 CFR 173.158(d)	To authorize the transportation in commerce of Nitric acid, other than red fuming in alternative packaging when transported by motor vehicle. (mode 1)
EE 14636–N	PHMSA–080017	Defense Logistics Agency, Lackland Air Force Base, TX.	49 CFR 180.209	To authorize the transportation in commerce of certain DOT specification 3AA and 3T cylinders that are past the test date for requalification. (modes 1, 2, 4, 5)
EE 14637–N	PHMSA–080017	Department Logistics Agency, Lackland Air Force Base, TX.	49 CFR 173.302a	To authorize the transportation in commerce of certain DOT specification 3AA and 3T cylinders that are past the test date for requalification. (modes 1, 2, 4, 5)
EE 14637–N	PHMSA–080033	Department of Defense, Scott AFB, IL.	49 CFR 173.302a	To authorize the transportation in commerce of a Division 2.2 compressed gas in a non-DOT specification pressure vessel. (modes 1, 2, 4, 5)
EE 14638–N	PHMSA–080027	Teledyne Energy Systems, Inc., Hunt Valley, MD.	49 CFR 173.213	To authorize the transportation in commerce of up to two pressure vessels containing Magnesium or Magnesium alloys under an Argon blanket further packaged in a non-DOT specification wooden box capable of meeting the performance requirements for PG II. (mode 1)

S.P. No.	Docket No.	Applicant	Regulation(s)	Nature of special permit of thereof
EE 14639–N	PHMSA–080026	Seacon Corporation, Charlotte, NC.	49 CFR 172.407	To authorize the transportation in commerce of certain packages containing Division 4.1 (flammable solid) hazardous materials which are labeled with a FLAMMABLE SOLID label that does not meet the minimum size requirements. (mode 1)
EE 14647–N	PHMSA–080029	Arkema, Inc., Philadelphia, PA.	49 CFR 172.407(c) and 172.301(c).	To authorize the transportation in commerce of certain packages containing a 2.2 gas in DOT specification cylinders, overpacked in cartons which were inadvertently printed with hazard warning labels that do not meet the size requirements in 49 CFR. (modes 1, 2, 3)
EE 14659–N	PHMSA–08–0056	ESM Group Inc., Amherst, NY.	49 CFR 173.242(b) and (c).	To authorize the transportation in commerce of calcium carbide (UN1402), Division 4.1, PG I in non-DOT specification bulk containers by motor vehicle. (modes 1, 2)
EE 14662–N		Flexcon Industries, Randolph, MA.	49 CFR 173.302a	To authorize the one-way transportation in commerce by motor vehicle of approximately 5,500 non-DOT specification cylinders containing compressed air at less than 55 psia. (mode 1)
EE 14665–N	PHMSA–080053	Tgi Co., Inc. dba Tgi Freight, Anchorage, AK.	49 CFR 173.159(c)(1)	To authorize the one-time, one-way transportation in commerce of a forklift battery pack in non-DOT specification packaging by cargo only aircraft. (mode 4)
EE 14666–N		Durant Performance Coatings, Revere, MA.	49 CFR 173.203	To authorize the one-time, one-way transportation in commerce of a Class 3 PG III flammable liquid in alternative packaging by motor vehicle. (mode 1)
EE 14672–N	PHMSA–08–0098	Pacific Bio-Material Management, Inc., Fresno, CA.	49 CFR 173.301(c), 173.196 and 178.609.	To authorize the one-time, one-way transportation in commerce of certain Category A infectious substances by motor vehicle in alternative packaging for a distance of less than 15 miles. (mode 1)
EE 14673–N		Pentair Water Treatment Company and Pentair Water Treatment Company's Distributors, Chardon, OH.	49 CFR 173.302a	To authorize the transportation in commerce of approximately 7200 non-DOT specification fully wrapped fiber-reinforced composite cylinders containing compressed air at a pressure not greater than 46 psig. (mode 1)
EE 14684–N		A.O. Smith Corporation, Milwaukee, WI.	49 CFR 173.302a	To authorize the one-way transportation in commerce by motor vehicle of approximately 49,300 non-DOT specification cylinders containing compressed air at less than 38 psig. (mode 1)
EE 14685–N		Carbide Industries, LLC, Louisville, KY.	49 CFR 173.211 and 172.102(c)(4) IBC Code IB4.	To authorize the transportation in commerce of calcium carbide (UN1402), Division 4.1, PG I in UN1A2 steel drums that are capable of meeting the PG I performance criteria and in UN13H3 and 13H4 flexible IBCs that are tested and marked to the PG II performance level. (modes 1, 2)
EE 14686–N		JCI Jones Chemicals, Inc., Charlotte, NC.	49 CFR 173.3(a), 173.22(a)(2) and 173.304a(a)(2).	To authorize the transportation in commerce of approximately five non-DOT specification ICC 25 specification cylinders that contain residues of either chlorine or sulfur dioxide. The cylinders need to be transported to a facility for purging, cleaning and disposal. (mode 1)
EE 14693–N		PAE Government Service (A Lockheed Martin Company), Arlington, VA.	49 CFR 173.159(b)	To authorize the one-time, one-way transportation in commerce of a forklift battery pack in non-DOT specification packaging by cargo only aircraft. (mode 4)
EE 14694–N		Department of Defense Scott AFB, IL.	49 CFR 173.62	To authorize the transportation in commerce of certain equipment contaminated with explosives in non-DOT specification packaging. (mode 1)
EE 14695–N		Linde North America Inc., Murray Hill, NJ.	49 CFR 180.209	To authorize the transportation in commerce of five DOT specification 3T cylinders that are past the test date for requalification. (modes 1, 2, 3)
EE 14702–N		CRI/Criterion, Inc. and its affiliate businesses, Houston, TX.	49 CFR 178.812(a) and 178.801(i).	To authorize the transportation in commerce of approximately 2,500 UN11HG2W, UN11HH2 and UN11HH2W certified intermediate bulk containers that do not meet all the requirements of the competent authority approval that authorized their manufacture. (modes 1, 2, 3)

S.P. No.	Docket No.	Applicant	Regulation(s)	Nature of special permit of thereof
Modification Special Permit Withdrawn				
8299–M		Pacific Scientific Company, Duarte, CA.	49 CFR 173.304(a)(1); 175.3; 178.44.	To modify the special permit to remove the ten percent gauge length testing requirement.
12301–M	PHMSA–995903	Arysta LifeScience North America, Cary, NC.	49 CFR 173.193(b)	To modify the special permit by adding an additional Division 6.1, Hazard Zone B hazardous material in DOT-Specification 4BW cylinders that exceed the presently authorized quantity limitations.
14393–M	PHMSA–27695	Hamilton Sundstrand Windsor Locks, CT.	49 CFR 173.306(e)(iii), (iv), (v) and (vi); 173.307(a)(4)(iv).	To modify the special permit to authorize the transportation in commerce of new supplemental cooling unit refrigeration machines with alternative safety devices as a component part of an aircraft.
New Special Permit Withdrawn				
14614–N	PHMSA–0072	Great Lakes Chemicals Corporation, West Lafayette, IN.	49 CFR 173.193	To authorize the transportation in commerce of non-DOT specification cylinders manufactured in the U.S. for export with valving and relief device requirements of the country that the cylinders will be exported to for use in transporting various compressed gases. (modes 1, 3)
14626–N	PHMSA–0096	Aerojet Sacramento, CA	49 CFR 173.56, 173.60 and 173.62.	To authorize the one-time, one-way transportation in commerce of a Class 1 explosive contained in a solid rocket motor in alternative packaging. (mode 1)
14671–N		SGL Carbon LLC, Charlotte, NC.	49 CFR 173.240	To authorize the transportation of Class 9 hazardous materials in an open flat-bed railcar. (mode 2)
Emergency Special Permit Withdrawn				
EE 14653–N	PHMSA–08–0040	Pacific Bio-Material Management, Inc. dba Pacific Scientific Transport, Fresno, CA.	49 CFR 173.196(b); 173.196(e)(2)(ii).	To authorize the transportation in commerce of Category A infectious substances in specialty designed packaging (freezers). (mode 1)
Denied				
14510–M	Request by Clean Earth Systems, Inc. Tampa, FL February 04, 2008. To modify the special permit to authorize the transportation in commerce by motor vehicle of certain hazardous materials in larger UN4G fiberboard boxes lined with polyethylene.			
14562–M	Request by The Lite Cylinder Company Franklin, TN May 30, 2008. To modify the special permit to authorize an increase in the water capacity of Lite's cylinders and to authorize an alternative drop test.			
14629–N	Request by Eastman Chemical Company Kingsport, TN May 30, 2008. To authorize the filling and transportation of certain railcars having broken or unused magnetic gauging devices (MGDs) without first obtaining a specific FRA Movement Approval for each railcar or conducting the repair on site.			
14642–N	Request by MEMC Pasadena, Inc. Pasadena, TX May 12, 2008. To authorize the transportation in commerce of certain DOT Specification 3AAX cylinders containing Silicon tetrafluoride without pressure relief devices.			
14562–M	PHMSA–080046	The Lite Cylinder Company, Franklin, TN.	49 CFR 173.304a(a)(1)	To modify the special permit to authorize the manufacture, mark and sale of additional larger capacity cylinders.
10298–M		Brooks Air Transport, Inc., Fairbanks, AK.	49 CFR 172.101, column (6)(b); 173.119; 175.320.	To modify the special permit by deleting the requirement that transportation is only authorized in areas "where the runway sizes prohibit large aircraft with installed tanks and there is no other practical alternative to air shipments of these portable tanks."
11606–M		Safety-Kleen Systems, Inc., Humble, TX.	49 CFR 173.28(b)(2)	To modify the special permit to authorize approved exclusive use contract carriers.
14675–N		Department of Energy, Washington, DC.	49 CFR 173.417	To authorize the continued transportation in commerce of radioactive material in alternative packaging authorized under an NRC certificate of compliance which expires October 1, 2008. (mode 1)
14687–N		National Aeronautics and Space Administration (NASA), Kennedy Space Center, FL.	49 CFR 180.209(a)(1) and (b), 180.205(f), (g), (h), and (i), 180.213(d), 180.215(a) and (b) and 173.302a(b)(3) and (b)(4).	To authorize the ultrasonic testing of DOT–3A, DOT–3AA and 3AL specification cylinders and cylinders manufactured under DOT–SP 9001, 9370, 9421, 9706, 9909, 10047 and 10869 for use in transporting Division 2.1, 2.2 or 2.3 material. (modes 1, 2, 3, 4, 5)

S.P. No.	Docket No.	Applicant	Regulation(s)	Nature of special permit thereof
EE 14612–N	.....	CABB North America, Inc., Huntersville, NC.	49 CFR 173.243	To authorize the transportation in commerce of chloroacedic acid in non-DOT specification cargo tanks made of titanium. (mode 1)

[FR Doc. E8–13215 Filed 6–18–08; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Application for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of special permits thereof'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before July 21, 2008.

Address Comments to: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue, SE., Washington, DC or at *http://dms.dot.gov*. This notice of receipt of applications for special permits is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on June 9, 2008.

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
		NEW SPECIAL PERMITS		
14706–N	.....	Toyota Motor Sales, U.S.A., Inc. Torrance, CA.	49 CFR 172.200, 172.504, and 173.25.	To authorize the one-way transportation in commerce of certain Class 8 and 9 hazardous materials not subject to shipping papers, placarding and marking and labeling of overpacks when moving Toyota's warehouse approximately 15 miles by motor vehicle. (mode 1).
14710–N	.....	Brenner Tank, LLC, Fond Du Lac, WI.	49 CFR 178.345–2	To authorize the manufacture, marking, sale and use of certain DOT 400 series specification cargo tanks using titanium instead of the specified metal. (mode 1)
14711–N	.....	Department of Defense, Albuquerque, NM.	49 CFR 173.62	To authorize the transportation in commerce of certain approved desensitized explosives in bulk packaging by motor vehicle. (mode 1)
14712–N	.....	Clean Earth Systems, Inc., Tampa, FL.	49 CFR 173.173(b)(2); 173.242.	To authorize the manufacture, marking, sale and use of UN 11G fiberboard intermediate bulk containers for use as the outer packaging for certain Class 3 waste paints and waste paint related material. (mode 1)
14717–N	.....	Amvac Chemical Corporation, Axis, AL.	49 CFR 173.241 and 173.243.	To authorize the transportation in commerce of plastic receptacles containing the residue of certain pesticide products in a non-DOT specification closed bulk bins. (modes 1, 2)
14718–N	.....	Catalina Cylinders, Cliff Impact Division, Hampton, VA.	49 CFR 178.65(i)	To authorize the manufacture, marking, sale and use of a cylinder conforming in all respects to a DOT Specification 39 except for a procedure in completing the marking requirement. (modes 1, 2, 3,4)

[FR Doc. E8–13769 Filed 6–18–08; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications for Modification of Special Permit.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of the applications have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of special permits (e.g., to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new applications for special permits to facilitate processing.

DATES: Comments must be received on or before July 7, 2008.

ADDRESS COMMENTS TO: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue, SE., Washington, DC or at *http://dms.dot.gov.*

This notice of receipt of applications for modification of special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on June 9, 2008.

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
MODIFICATION SPECIAL PERMITS				
7765–M		Carleton Technologies, Inc., Orchard Park, NY.	49 CFR 173.302(a)(4); 175.3.	To modify the special permit to authorize reheat treatment of lots of rejected cylinders when the construction materials do not pass pressure and flattening tests.
9884–M		Covidien (formerly Tyco Healthcare), Plainfield, IN.	49 CFR 173.3 16	To modify the special permit to authorize brazing of withdrawal tubes rather than welding.
11725–M		ATK Space (formerly Swales Aerospace, Inc.), Beltsville, MD.	49 CFR 173.34(d); 173.40; 173.301; 173.302(a); 173.304(a)(2); 175.3.	To modify the special permit to authorize the transportation in commerce of an additional Class 3 and Class 9 hazardous material.
11818–M		ATK Space (formerly Swales Aerospace, Inc.), Beltsville, MD.	49 CFR 180.205	To modify the special permit to authorize the transportation in commerce of an additional Class 3 material.
12296–M	RSPA–99–5879.	Clean Earth Systems, Inc., Tampa, FL.	49 CFR 173.12(b)(2)(i)	To modify the special permit to authorize an alternative outer packaging for lab packs.
14457–M	PHMSA–07–26878.	Amtrol Alfa Metalomecanica SA, Portugal.	49 CFR 173.304a(a)(1); 175.3.	To modify the special permit to authorize the manufactured cylinders to be used as recovery cylinders for the materials authorized in the special permit.
14659–M	PHMSA–08–0056.	ESM Group Inc., Amherst, NY.	49 CFR 173.242 (b) and (c).	To reissue the special permit originally issued on an emergency basis for the transportation in commerce of calcium carbide (UN 1402), Division 4.1, PG I in non-DOT specification bulk containers by motor vehicle.

[FR Doc. E8–13744 Filed 6–18–08; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Special Permits Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications Delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Delmer F. Billings, Director, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue, Southeast, Washington, DC 20590–0001, (202) 366–4535.

Key to ''Reason for Delay''

1. Awaiting additional information from applicant.

2. Extensive public comment under review.

3. Application is technically complex and is of significant, impact or

precedent-setting and requires extensive analysis.

4. Staff review delayed by other priority issues or volume of special permit applications.

Meaning of Application Number Suffixes

N—New application.
M—Modification request.
PM—Party to application with modification request.

Issued in Washington, DC, on June 9, 2008.

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

Application no.	Applicant	Reason for delay	Estimated date of completion
MODIFICATION TO SPECIAL PERMITS			
11579–M	Austin Powder Company, Cleveland, OH	3, 4	07–31–2008
10964–M	Kidde Aerospace & Defense, Wilson, NC	4	06–30–2008
14167–M	Trinityrail, Dallas, TX	4	07–31–2008
NEW SPECIAL PERMIT APPLICATIONS			
14566–N	Nantong CIMC Tank Equipment Co. Ltd., Nantong City, China	3	08–31–2008
14621–N	Beijing Tianhai Industry Co., Ltd., Beijing	4	07–31–2008
14616–N	Chlorine Service Company, Kingwood, TX	3	08–31–2008
14619–N	OXEA Corporation, Dallas, TX	4	07–31–2008
14622–N	Occidental Chemical Corporation, Dallas, TX	4	07–31–2008

[FR Doc. E8–13530 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–409 (Sub-No. 5X)]

Los Angeles County Metropolitan Transportation Authority—Abandonment Exemption—in Los Angeles County, CA

Los Angeles County Metropolitan Transportation Authority (LACMTA) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exemption Abandonments* to abandon a 0.31-mile line of railroad (the Line), a portion of the Santa Monica Industrial Lead,[1] between milepost 485.69 and milepost 486.00 in Los Angeles County, CA. The line traverses United States Postal Service Zip Code 90011.

LACMTA has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment-Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 18, 2008, unless stayed pending reconsideration. LACMTA has simultaneously filed in this proceeding a petition for exemption from the OFA provisions at 49 U.S.C. 10904 and the public use provisions at 49 U.S.C. 10905. That matter will be resolved in a subsequent decision.

The OFA process is designed for the purpose of providing continued rail service. The Board need not require the sale of a line under the OFA provisions if it determines that the offeror is not genuinely interested in providing rail service or that there is no likelihood of future traffic.[2] Here, where the abandoning carrier seeks an exemption from the provisions of section 10904, where there has been no service on the line for at least 2 years, and where the property is proposed to be used for a public purpose, any person who wishes to oppose the request for an exemption from the OFA provisions or who intends to file an OFA should address one or more of the following: whether there is a demonstrable commercial need for rail service, as manifested by support from shippers or receivers on the line being abandoned or as manifested by other evidence of immediate and significant commercial need; whether there is community support for continued rail service; whether acquisition of freight operating rights would interfere with current and planned transit services; and whether continued rail service is operationally feasible, especially where, as here, the line to be abandoned is physically constrained.

The petition for exemption from the OFA process was filed on May 29, 2008. To permit persons to take these factors into consideration in filing a reply to the

[1]The Santa Monica Industrial Lead is the subject of a notice of exemption in *Union Pacific Railroad Company—Abandonment and Discontinuance of Trackage Rights Exemption—in Los Angeles County, CA,* STB Docket No. AB–33 (Sub-No. 265X) that was served and published in the **Federal Register** on April 8, 2008. The exemption became effective on May 8, 2008. In a decision served May 7, 2008, the Board rejected a notice of intent by James Riffin to file an offer of financial assistance (OFA) to purchase the Santa Monica Industrial Lead. On May 28, 2008, Riffin filed a petition to revoke Union Pacific Railroad Company's (UP) exemption, to which UP replied on June 2, 2008. Those filings will be addressed in a subsequent Board decision. In this notice, LACMTA is seeking to abandon its residual common carrier obligation for the Line.

[2]*See, e.g., Union Pacific Railroad Company—Abandonment and Discontinuance of Trackage Rights Exemption—in Los Angeles County, CA,* STB Docket No. AB–33 (Sub-No. 265X) (STB served May 7, 2008); *Roaring Fork Railroad Holding Authority—Abandonment Exemption—in Garfield, Eagle, and Pitkin Counties, CO,* STB Docket No. AB–547X (STB served May 21, 1999), *aff'd sub nom. Kulmer* v. *STB,* 236 F.3d 1255, 1256–58 (10th Cir. 2001); *The Burlington Northern and Santa Fe Railway Company-Abandonment Exemption-in King County, WA,* STB Docket No. AB–6 (Sub-No. 380X) (STB served Aug. 5, 1998).

petition for exemption, replies to that petition for exemption will be accepted until June 25, 2008.

Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 30, 2008. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 8, 2008, with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to LACMTA's representative: Charles Spitulnik, 1001 Connecticut Avenue, NW., Suite 905, Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

LACMTA has filed a combined environmental and historic report. SEA will issue an environmental assessment (EA) by June 23, 2008. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. (Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.) Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), LACMTA shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by LACMTA's filing of a notice of consummation by June 18, 2009, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Each OFA must be accompanied by the filing fee, which currently is set at $1,300. *See* 49 CFR 1002.2(f)(25).

Decided: June 12, 2008.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–13639 Filed 6–18–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds—Change in State of Incorporation; The American Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 16 to the Treasury Department Circular 570, 2007 Revision, published July 2, 2007, at 72 FR 36192.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: Notice is hereby given that The American Insurance Company (NAIC# 21857) has redomesticated from the state of Nebraska to the state of Ohio effective December 17, 2007. Federal bond-approving officials should annotate their reference copies of the Treasury Department Circular 570 (''Circular''), 2007 Revision, to reflect this change.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570.*

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F01, Hyattsville, MD 20782.

Dated: June 3, 2008.

Vivian L. Cooper,

Director, Financial Accounting and Services Division.

[FR Doc. E8–13515 Filed 6–18–08; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds—Termination: Madison Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 17 to the Treasury Department Circular 570, 2007 Revision, published July 2, 2007, at 72 FR 36192.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to the above-named company under 31 U.S.C. 9305 to qualify as acceptable surety on Federal bonds was terminated effective June 10, 2008. Federal bond-approving officials should annotate their reference copies of the Treasury Department Circular 570 (''Circular''), 2007 Revision, to reflect this change.

With respect to any bonds, including continuous bonds, currently in force with this company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. No new bond should be accepted from this company, and bonds that are continuous in nature should not be renewed.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570.*

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F01, Hyattsville, MD 20782.

Dated: June 10, 2008.

Vivian Cooper,

Director, Financial Accounting and Services Division.

[FR Doc. E8–13583 Filed 6–18–08; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0101]

Agency Information Collection (Eligibility Verification Reports) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the

nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 21, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0101'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0101.''

SUPPLEMENTARY INFORMATION:

Titles: Eligibility Verification Reports (EVR).

a. Eligibility Verification Report Instructions, VA Form 21–0510.

b. Old Law and Section 306 Eligibility Verification Report (Surviving Spouse),VA Form 21–0512S–1.

c. Old Law and Section 306 Eligibility Verification Report (Veteran), VA Form 21–0512V–1.

d. Old Law and Section 306 Eligibility Verification Report (Children Only), VA Form 21–0513–1.

e. DIC Parent's Eligibility Verification Report, VA Forms 21–0514 and 21–0514–1.

f. Improved Pension Eligibility Verification Report (Veteran With No Children), VA Forms 21–0516 and 21–0516–1.

g. Improved Pension Eligibility Verification Report (Veteran With Children), VA Forms 21–0517 and 21–0517–1.

h. Improved Pension Eligibility Verification Report (Surviving Spouse With No Children), VA Forms 21–0518 and 21–0518–1.

i. Improved Pension Eligibility Verification Report (Child or Children), VA Forms 21–0519C and 21–0519C–1.

j. Improved Pension Eligibility Verification Report (Surviving Spouse With Children), VA Forms 21–0519S and 21–0519S–1.

OMB Control Number: 2900–0101.

Type of Review: Extension of a currently approved collection.

Abstract: VA uses Eligibility Verification Reports (EVR) forms to verify a claimant's continued entitlement to benefits. Claimants who applied for or received Improved Pension or Parents' Dependency and Indemnity Compensation must promptly notify VA in writing of any changes in entitlement factors. EVRs are required annually by beneficiaries whose social security number (SSN) or whose spouse's SSN is not verified, or who has income other than Social Security. Recipients of Old Law and Section 306 Pension are no longer required to submit annual EVRs unless there is a change in their income.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 11, 2008, at pages 19939–19940.

Affected Public: Individuals or households.

Estimated Annual Burden: 113,075 hours. The annual burden for VA Forms 21–0512S–1, 21–0512V–1, 21–0513–1, 21–0514, 21–0514–1, 21–0516, 21–0516–1, 21–0518, 21–0518–1, 21–0519C, and 21–0519C–1 is 98,775 and 14,300 for VA Forms 21–0517, 21–0517–1, 21–0519S, and 21–0519S–1.

Estimated Average Burden Per Respondent: The estimated burden respondent for VA Forms 21–0512S–1, 21–0512V–1, 21–0513–1, 21–0514, 21–0514–1, 21–0516, 21–0516–1, 21–0518, 21–0518–1, 21–0519C, and 21–0519C–1 is 30 minutes and 40 minutes for VA Forms 21–0517, 21–0517–1, 21–0519S, and 21–0519S–1.

Frequency of Response: Annually.

Estimated Number of Respondents: 219,000. The number of respondents for VA Forms 21–0512S–1, 21–0512V–1, 21–0513–1, 21–0514, 21–0514–1, 21–0516, 21–0516–1, 21–0518, 21–0518–1, 21–0519C, and 21–0519C–1 is 197,550 and 21,450 for VA Forms 21–0517, 21–0517–1, 21–0519S, and 21–0519S–1.

Dated: June 11, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–13795 Filed 6–18–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0016]

Proposed Information Collection (Claim for Disability Insurance Benefits, Government Life Insurance) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine a claimant's eligibility for disability insurance benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 18, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0016 in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Claim for Disability Insurance Benefits, Government Life Insurance, VA Form 29–357.

OMB Control Number: 2900–0016.

Type of Review: Extension of a currently approved collection.

Abstract: Policyholder's complete VA Form 29–357 to claim disability insurance on National Service Life Insurance and United States Government Life Insurance policies. The information collected is used to determine the policyholder's eligibility for disability insurance benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 14,175 hours.

Estimated Average Burden Per Respondent: 1 hour and 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 8,100.

Dated: June 11, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–13822 Filed 6–18–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease of VA Property for the Development and Operation of a Transitional Housing Facility for Eligible Homeless Veterans at the Department of Veterans Affairs Medical Center, Dayton, OH

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of Intent to Enter into an Enhanced-Use Lease.

SUMMARY: The Secretary of the Department of Veterans Affairs (VA) intends to enter into an enhanced-use lease of approximately 41,817 gross square feet of underutilized building space at the VA Medical Center in Dayton, Ohio. The selected lessee will finance, renovate, construct, design, develop, operate, manage and maintain a transitional housing facility consisting of no less than 50 units for eligible homeless veterans. As consideration for the lease, eligible veterans will be provided facility units and related services on a priority basis at no cost to VA.

FOR FURTHER INFORMATION CONTACT: Edward Bradley, Office of Asset Enterprise Management (004B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7778 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 8161 *et seq.* states that the Secretary may enter into an enhanced-use lease if he determines that implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease for the provision of medical care and services would result in a demonstrable improvement of services to eligible veterans in the geographic service-delivery area within which the property is located. This project meets this requirement.

Approved: June 10, 2008.

James B. Peake,

Secretary of Veterans Affairs.

[FR Doc. E8–13823 Filed 6–18–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Loan Guaranty: Loan Servicing and Claims Procedures Modifications Segment 3 Effective Date

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of applicability of subpart F of 38 CFR part 36, to Segment 3 of the mortgage servicing industry.

SUMMARY: This publication is to serve as notice that on May 30, 2008, subpart F of title 38, Code of Federal Regulations, part 36, will be applicable to industry segment 3. Program participants in the VA Home Loan Guaranty Program's servicing and claims activities were assigned to one of nine industry segments as part of the planned phased implementation of the rules in subpart F. All program participants were given notice of their respective segments and were afforded opportunity to comment during the regulatory development process (see Supplementary Information section, below). Segment 3 participants will be under the authority of subpart F rules on May 30, 2008. VA continues to work with these participants to ensure that all necessary servicing system modifications, defect corrections, interface testing and data transmission are addressed.

SUPPLEMENTARY INFORMATION: On Friday, February 1, 2008, VA published final regulations that modify its Loan Guaranty Program's loan servicing and claims procedures modifications (73 FR 6294). In response to comments received to the proposed regulations (70 FR 8472, published February 18, 2005) and to a supplemental notice published on November 27, 2006 (71 FR 68498), VA published a second supplemental notice on June 1, 2007 (72 FR 30505), in which the agency put forth a proposal to phase-in implementation of the new tracking system.

Based on comments received to the proposed regulations and the first supplemental notice, VA decided to proceed with gradual implementation of the new rules and its computer-based tracking system, the VA Loan Electronic Reporting Interface (VALERI), with nine separate industry segments to be phased in over a period of approximately 11 months. The first segment was subject to the new rules upon publication of the final regulations, when the rules became effective. The second segment was subject to the new rules effective April 19, 2008 (73 FR 21176). The third segment will be subject to the new rules effective May 30, 2008. Similar notices will be provided prior to the date that subpart F will be applicable to each subsequent industry segment.

FOR FURTHER INFORMATION CONTACT: Mike Frueh, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–9521 (not a toll-free number).

Approved: June 12, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E8–13827 Filed 6–18–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Genomic Medicine Program Advisory Committee

Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Genomic Medicine Program Advisory Committee will meet on July 18, 2008 at the Hamilton Crown Plaza, 1001 14th Street, NW., Washington, DC. The meeting will convene at 8 a.m. and adjourn at 5 p.m. The meeting is open to the public.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on using genetic information to optimize medical care of veterans and to enhance development of tests and treatments for diseases particularly relevant to veterans.

At the July 18 meeting, the Committee will receive program updates including planned responses to recommendations, and will continue to examine potential options for VA to incorporate genomic

information into its health care program while applying appropriate ethical oversight and protecting the privacy of veterans. The meeting will also include discussions on the oversight of genetic testing and workforce development to accommodate the genomic medicine program.

The meeting will include time reserved for public comments. Members of the public may provide up to 5 minute statements during the period reserved for public comments. They may also submit, at the time of the meeting, a 1–2 page summary of their comments for inclusion in the official meeting record. Any member of the public seeking additional information should contact Dr. Sumitra Muralidhar at *sumitra.muralidhar@va.gov.*

Dated: June 12, 2008.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. E8–13805 Filed 6–18–08; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 73, No. 119

Thursday, June 19, 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 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

Correction

In proposed rule document E8–11700 beginning on page 30322 in the issue of Tuesday, May 27, 2008 make the following correction:

On page 30323, in the first column, under the **NOAA** heading, in paragraph (2), in the first and second lines, ''*NOAA.MarineDebris.FRNcomments.noaa.gov.*'' should read ''*NOAA.MarineDebris.FRNcomments@noaa.gov.*''.

[FR Doc. Z8–11700 Filed 6–18–08; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
June 19, 2008

Part II

Department of Homeland Security

Coast Guard

33 CFR Parts 1, 40, 62 et al.

Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 1, 40, 62, 66, 80, 84, 100, 101, 104, 105, 110, 114, 115, 116, 117, 118, 126, 135, 151, 153, 154, 155, 156, 157, 158, 159, 161, 162, 164, 165, 166, 173, 174, 179, 181, 183, and 187

[USCG–2008–0179]

RIN 1625–ZA16

Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This rule makes non-substantive changes throughout Title 33 of the Code of Federal Regulations. The purpose of this rule is to make conforming amendments and technical corrections to Coast Guard navigation and navigable water regulations. This rule will have no substantive effect on the regulated public. These changes are provided to coincide with the annual recodification of Title 33 in July.

DATES: This final rule is effective June 19, 2008.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–0179 and are available for inspection or copying at the Docket Management Facility, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call LCDR Reed Kohberger, CG–5232, Coast Guard, telephone 202–372–1471. If you have questions on viewing the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under both 5 U.S.C. 553(b)(A) and (b)(B), the Coast Guard finds this rule is exempt from notice and comment rulemaking requirements because these changes involve agency organization and practices, and good cause exists for not publishing an NPRM for all revisions in the rule because they are all non-substantive changes. This rule consists only of corrections and editorial, organizational, and conforming amendments. These changes will have no substantive effect on the public; therefore, it is unnecessary to publish an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

II. Background and Purpose

Each year the printed edition of Title 33 of the Code of Federal Regulations is recodified on July 1. This rule, which becomes effective June 19, 2008, makes technical and editorial corrections throughout Title 33. This rule does not create any substantive requirements.

III. Discussion of Rule

This rule updates Coast Guard headquarters and field office designations, telephone numbers, and Web site addresses. These updates are non-substantive and are located throughout 33 CFR Parts 1, 62, 66, 84, 101, 104, 105, 114, 116, 118, 135, 151, 153, 154, 155, 156, 157, 159, 162, 164, 165, 174, 179, 181, 183, and 187. Sections 80.505, 80.715, 80.805, 101.415, 126.3, 157.37, 162.75, 162.90, 162.220, and 166.200 are amended to correct typographical and grammatical errors. The phrase ''public hearing'' has been amended to ''public meeting'' in parts 115, 116, and 118. This change has been made so as to better describe the public's role in commenting on proposed bridge actions. In the past, the Coast Guard has used the term ''public hearing'' to describe the informal process which allows the public an opportunity to voice their opinion regarding Coast Guard proposed bridge actions. We have noted that the use of the term ''hearing'' may cause some confusion among members of the public. Therefore, in an effort to clarify the public's role regarding proposed bridge actions, we have removed the word ''hearing'' and replaced it with ''meeting''. Changing the wording from ''hearing'' to ''meeting'' has no substantive effect on how the Coast Guard currently announces or gathers public opinion or other information regarding bridge matters, nor will it change the substance of the public's involvement in the process. Lastly, in sections 153.103, 154.1016, 154.1216, and 165.100, the reference to the definition of ''Navigable waters'' is updated to accurately reflect where the definition may be referenced within the Code of Federal Regulations (CFR).

Additional amendments to parts 1, 40, 66, 80, 100, 101, 104, 110, 114, 117, 151, 155, 157, 158, 161, 162, 165, 166, 173, and 187 are as follows:

33 CFR 1.05. In § 1.05(d), we have updated the delegation of rulemaking authority from the Commandant to the Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5), the Director of the National Pollution Fund (Director, NPFC), and the Chief, Office of Regulations and Administrative Law (CG–0943). In paragraph (e) of this section, we have removed the authority previously delegated to District Commanders and associated with the establishment of special local regulations and added it to paragraph (f) as delegated authority to Captains of the Port. In § 1.05–10, we have removed the word ''project'' and replaced it with ''documents'' so as to clearly identify those rulemaking documents that must be approved by the Commandant. In § 1.05–20(c), we have removed the word ''file'' and replaced it with ''docket'' so as to better identify how the public may access our rulemaking documents. Lastly, in § 1.05–25, we have updated the references to Web sites where docket information for Coast Guard rulemaking projects may be obtained, and we have provided brief descriptions on how to access those documents.

33 CFR 40.1. This section is updated to inform the public of the forms necessary for application to the Coast Guard Academy.

33 CFR 66.01–45. We removed a reference that does not exist in the CFR and replaced it with the correct reference.

33 CFR 80.738. We revised this section to properly identify coordinates. Previously, the Coast Guard described the location of a demarcation line by describing the location of an aid to navigation. The aids to navigation language has been removed, and we have inserted coordinates to identify the location of the demarcation line.

33 CFR 100.114. This section updates the location of fireworks displays within the First Coast Guard District and removes references to those fireworks displays that no longer occur.

33 CFR Part 101. The Navigation and Vessel Inspection Circular (NVIC) references are updated in sections 101.105 and 101.510 to reflect the most current version. NVIC's are guidance documents and do not impose substantive requirements on the public.

33 CFR Part 104. Section 104.106 is updated to clearly identify which locations passengers may access on passenger vessels. Section 104.292 updates references for passenger vessels and ferries. The references were changed as a result of the Transportation Worker Identification Credential rulemaking. 72 FR 3492. The substance of the references has not changed.

33 CFR Part 110. The geographic coordinates in § 110.60 have been revised to allow mariners to use the North American Datum of 1983. Additionally, many of the coordinates previously listed in § 110.60 have been relocated to a new § 110.59 to better align the areas of responsibility within the First Coast Guard District.

Section 110.155 is corrected to accurately identify coordinates using NAD 83. Sections 110.245 and 110.250 are amended to properly identify Coast Guard Sectors and Captains of the Port, respectively.

33 CFR Part 114. Section 114.01 has been amended to delete all references to legal authority within the regulatory text. Those authorities have been added to the ''Authorities'' section of this part.

33 CFR Part 117. In this part, we have updated the name of a bridge because the city changed the name.

33 CFR Part 151. In §§ 151.05, 151.09, 151.30, and 151.66 the references to the definitions for ''Oceangoing ship'', ''internal waters'', and ''navigable waters'' are updated to accurately reflect where those definitions can be referenced within the CFR. The definitions have not changed.

In § 151.06, we have inserted new ''special areas.'' In this instance, special areas are identified by the International Maritime Organization (IMO). The special areas added to this section are in international waters and will not be enforced by the Coast Guard. Publication of these special areas in this final rule will alert mariners of their existence if they travel internationally. Further, these special areas are not enforced by the IMO at this time. When the IMO elects to enforce these special areas, the Coast Guard will initiate a separate rulemaking to alert the public. In the appendix to subpart D of this part, we have removed the reference to ''U.S. EEZ'' and replaced it with ''waters of the United States''. The regulatory text associated with this appendix requires mariners to comply with certain regulations if operating within the ''waters of the United States'', and the appendix erroneously conveys that mariners must comply with certain regulations if operating within waters of the EEZ. This amendment will not create a new burden on the public as it merely aligns the appendix with the regulatory text.

In § 151.13, we have updated the list of ''special areas.''

In § 151.43, the reference to 46 CFR 153.906 has been deleted because it does not exist.

In § 151.49, the duplicate reference to ''isoppropylcyclohexane'' has been removed.

33 CFR Part 155. The authorities section for this part is updated to accurately reflect the applicable authorities because a past rulemaking (68 FR 37738) inadvertently removed some of the applicable authorities for this part. The deleted authorities remain applicable, and as such, they are reinserted. The reinserted authorities do not create a new substantive burden on the public.

Sections 155.1025, 155.1030, and 155.1065 are amended to reflect updated references to the International Convention for the Prevention of Oil Pollution from Ships Annex I. The changes to the references do not create substantive burdens on the public. Section 155.1050 is updated to add the phrase ''emergency lightering'' in order to be consistent with other sections within this part. No new requirement is placed on the public with the insertion of this phrase.

33 CFR Part 157. In § 157.08, the reference to the term ''territorial sea'' is updated to accurately reflect where the definition may be referenced. The definition has not changed. Additionally, a few references in Appendix A, B, and C have been updated to accurately reflect updates to the regulations found in Annex I of the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978. These updates reflect a consolidation of requirements, rather than new requirements, and are non-substantive in nature.

33 CFR 158.120. The reference to the definition of ''Oceangoing ship'' is updated to accurately reflect where the definition may be referenced. The definition has not changed.

33 CFR Part 161. We revised the authorities section because it erroneously identified the codified section for ''Civil penalty'' as 46 U.S.C. 70117 rather than 46 U.S.C. 70119. In § 161.12, we amended the frequency monitoring area mariners may use to contact the Coast Guard. The mariners have been using the updated frequency monitoring area for years, and as such, the change will reflect what has been in practice for the past several years.

33 CFR Part 162. In §§ 162.15(a) and 162.200(a), coordinates are corrected to accurately identify North and West latitudinal and longitudinal coordinates; respectively. Additionally, in §§ 162.220, 162.235, and 162.270, non-substantive clarification amendments are made to these sections.

33 CFR Part 165. Several sections in this part are amended to remove regulated navigation areas that are no longer active because of event cancellation or project completion. Further, the remaining associated regulated navigation area items have been rewritten to provide clarity.

33 CFR Part 166. In paragraph (d) of this section, we added North and West designations in the chart to provide clarity.

33 CFR 173.3(g). The definition of a ''State'' is amended to add the Commonwealth of the Northern Mariana Islands. This change is nonsubstantive as the Commonwealth of the Northern Mariana Islands has been included as an authoritative ''State'' for purposes of this part.

33 CFR Part 187. The definition of ''approved numbering system'' is amended to reflect ''Secretary of the Department of Homeland Security'' rather than the ''Secretary of the Department of Transportation''.

IV. Regulatory Evaluation

A. Executive Order 12866

This final rule is considered to be a nonsignificant regulatory action under Executive Order 12866. Additionally, we expect no economic impact as a result of this rule; as such a full regulatory assessment is unnecessary. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently

owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. However, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Collection of Information

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

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 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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Taking of Private Property

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

G. Civil Justice Reform

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

H. Protection of Children

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

I. Indian Tribal Governments

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

J. Energy Effects

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

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

L. Environment

We have analyzed this 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 have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraphs (34)(a) and (b) of the Instruction from further environmental documentation because this rule involves editorial, procedural, and internal agency functions. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information Penalties.

33 CFR Part 40

Military academies.

33 CFR Part 62

Navigation (water).

33 CFR Part 66

Intergovernmental relations, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 80

Navigation (water), Treaties, Waterways.

33 CFR Part 84

Navigation (water), Waterways.

33 CFR Part 100

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

33 CFR Part 101

Harbors, Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

33 CFR Part 104

Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels.

33 CFR Part 105

Maritime security, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 110

Anchorage grounds.

33 CFR Part 114

Bridges.

33 CFR Part 115

Administrative practice and procedure, Bridges, Reporting and recordkeeping requirements.

33 CFR Part 116

Bridges.

33 CFR Part 117

Bridges.

33 CFR Part 118

Bridges.

33 CFR Part 126

Explosives, Harbors, Hazardous substances, Reporting and recordkeeping requirements.

33 CFR Part 135

Administrative practice and procedure, Continental shelf, Insurance, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 153

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 154

Alaska, Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 155

Alaska, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 157

Cargo vessels, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 158

Administrative practice and procedure, Harbors, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 159

Alaska, Reporting and recordkeeping requirements, Sewage disposal, Vessels.

33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 162

Navigation (water), Waterways.

33 CFR Part 164

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

33 CFR Part 165

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

33 CFR Part 166

Anchorage grounds, Marine safety, Navigation (water), Waterways.

33 CFR Part 173

Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 174

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 179

Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 181

Labeling, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 183

Marine safety.

33 CFR Part 187

Administrative practice and procedure, Marine safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 1, 40, 62, 66, 80, 84, 100, 101, 104, 105, 110, 114, 115, 116, 117, 118, 126, 135, 151, 153, 154, 155, 156, 157, 158, 159, 161, 162, 164, 165, 166, 173, 174, 179, 181, 183, and 187 as follows:

Title 33—Navigation and Navigable Waters

PART 1—GENERAL PROVISIONS

■ 1. The authority citation in subpart 1.05 continues to read as follows:

Authority: 5 U.S.C. 552, 553, App. 2; 14 U.S.C. 2, 631, 632, and 633; 33 U.S.C. 471, 499; 49 U.S.C. 101, 322; Department of Homeland Security Delegation No. 0170.1.

§ 1.05–1 [Amended]

■ 2. In § 1.05–1—

■ a. Revise paragraphs (d) and (f) and add a new paragraph (h) to read as set out below;

■ b. Remove paragraph (e)(1)(vi); and

■ c. In paragraph (g), remove the phrase ''Environmental protection'' and add, in its place, the word ''Stewardship''.

§ 1.05–1 Delegation of rulemaking authority.

* * * * *

(d) The Commandant has redelegated the authority to develop and issue those regulations necessary to implement laws, treaties and Executive Orders to the Assistant Commandant for Marine Safety, Security and Stewardship (CG–5). The Commandant further redelegates this same authority to the Director, National Pollution Fund Center (Director, NPFC) for those regulations within the Director, NPFC area of responsibility.

(1) The Assistant Commandant for Marine Safety, Security, and Stewardship may further reassign the delegated authority of this paragraph to:

(i) Any Director within the CG–5 Directorate as appropriate; or

(ii) Any other Assistant Commandant as appropriate.

(2) The authority redelegated in paragraph (d) of this section is limited to those regulations determined to be nonsignificant within the meaning of Executive Order 12866.

* * * * *

(f) Except for those matters specified in paragraph (c) of this section, the Commandant has redelegated to Coast Guard Captains of the Port, with the reservation that this authority shall not be further redelegated, the authority to establish safety and security zones and special local regulations.

* * * * *

(h) The Chief, Office of Regulations and Administrative Law (CG–0943), has authority to develop and issue those regulations necessary to implement all technical, organizational, and conforming amendments and corrections to rules, regulations, and notices.

§ 1.05–10 [Amended]

■ 3. In paragraph (c) remove the word ''projects'' and add, in its place, the word ''documents''.

§ 1.05–20 [Amended]

■ 4. In § 1.05–20—

■ a. In paragraph (a), remove the phrase ''(G–LRA)'' and add, in its place, the phrase ''(CG–0943)'' and

■ b. In paragraph (c), remove the word ''file'' and add, in its place, the word ''docket''.

■ 5. Revise § 1.05–25 to read as follows:

§ 1.05–25 Public docket.

(a) A public docket is maintained electronically for each petition for rulemaking and each Coast Guard rulemaking project and notice published in the **Federal Register**. Each docket contains copies of every rulemaking document published for the project, public comments received, summaries of public meetings or hearings, regulatory assessments, and other publicly-available information. Members of the public may inspect the

public docket and copy any documents in the docket. Public dockets for Coast Guard rulemakings are available electronically at *http://www.regulations.gov*. To access a rulemaking, enter the docket number associated with rulemaking in the ''Search'' box and click ''Go >>.'' These documents are also kept at a Docket Management Facility maintained by the Department of Transportation, West Building, room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

(b) The public dockets for Coast Guard rulemaking activity initiated by Coast Guard District Commanders are available for public inspection at the appropriate Coast Guard District office or online at *http://www.regulations.gov*. Paragraph (a) of this section describes how to access and view these documents.

(c) The public dockets for Coast Guard rulemaking activity initiated by Captains of the Port are available for inspection at the appropriate Captains of the Port Office or online at *http://www.regulations.gov*. Paragraph (a) of this section describes how to access and view these documents.

PART 40—CADETS OF THE COAST GUARD

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

Authority: 14 U.S.C. 182 and 633; 49 CFR 1.46(b)

■ 7. Revise § 40.1 to read as follows:

§ 40.1 Program for appointing cadets.

The Coast Guard conducts a program for appointing qualified men and women as cadets who are admitted to the Coast Guard Academy, New London, Connecticut. The Superintendent of the Coast Guard Academy tenders appointments on the basis of previous academic performance, reported College Entrance Examination Board or American College Testing scores, and the findings of a Cadet Candidate Evaluation Board, consisting of Coast Guard officers appointed by the Superintendent of the Coast Guard Academy, which reviews each applicant's personal qualifications. In addition, a Service Academy Medical Examination must be satisfactorily completed before appointment. Applications must be submitted online at *http://www.uscga.edu* using Coast Guard forms CGA–14, CGA–14A, CGA–14B, CGA–14C, and CGA–14D. These forms, along with additional information on the Cadet appointment program, may be obtained from the Director of Admissions, U.S. Coast Guard Academy, New London, CT 06320.

PART 62—UNITED STATES AIDS TO NAVIGATION SYSTEM

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

Authority: 14 U.S.C. 85; 33 U.S.C. 1222, 1233; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.

■ 9. In § 62.65, add a new paragraph (c)(3) to read as follows:

§ 62.65 Procedure for reporting defects and discrepancies.

* * * * *

(c) * * *

(3) Via our Web portal at *http://www.navcen.uscg.gov*.

PART 66—PRIVATE AIDS TO NAVIGATION

■ 10. The authority citation for part 66 continues to read as follows:

Authority: 14 U.S.C. 83, 84, 85; 43 U.S.C. 1333; Pub. L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1.

§ 66.01–5 [Amended]

■ 11. In § 66.01–5 introductory text, remove ''or you can request a paper copy by calling the Boating Safety Information line at (800) 368–5647''.

§ 66.01–45 [Amended]

■ 12. In § 66.01–45, remove ''64.10'' and add, in its place, ''64.11''.

PART 80—COLREGS DEMARCATION LINES

■ 13. The authority citation for part 80 continues to read as follows:

Authority: 14 U.S.C. 2; 14 U.S.C. 633; 33 U.S.C. 151(a); 49 CFR 1.46.

■ 14. Revise the heading of § 80.505 to read as follows:

§ 80.505 Cape Henlopen, DE, to Cape Charles, VA.

* * * * *

§ 80.715 [Amended]

■ 15. In § 80.715, remove ''(Range Rear)'' and add, in its place, ''Range Rear''.

■ 16. In § 80.738, revise paragraph (b) to read as follows:

§ 80.738 Puerto Rico and Virgin Islands.

* * * * *

(b) A line drawn from Puerto San Juan Light to position 18°28′30″ N, 066°08′24″ W, at the northwest extent of Isla de Cabras across the entrance of San Juan Harbor.

§ 80.805 [Amended]

■ 17. In § 80.805 paragraph (c), remove the phrase ''(Range Rear)'' and add, in its place, the phrase ''Range Rear''.

PART 84—ANNEX I: POSITIONING AND TECHNICAL DETAILS OF LIGHTS AND SHAPES

■ 18. The authority citation for part 84 continues to read as follows:

Authority: 33 U.S.C. 2071; Department of Homeland Security Delegation No. 0170.1.

§ 84.13 [Amended]

■ 19. In § 84.13 paragraph (a), remove the phrase ''(G–SEC–2)'' and add, in its place, the phrase ''(CG–432)''.

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 20. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 21. In § 100.114, revise the Fireworks Display Table in paragraph (a) to read as follows:

§ 100.114 Fireworks displays within the First Coast Guard District.

(a) * * *

FIREWORKS DISPLAY TABLE

May		
Massachusetts:		
5.1	A night during Memorial Day Weekend	Name: Hull Memorial Day Festival. Sponsor: Town of Hull. Time: 8 p.m. to 10 p.m. Location: Barge located 200 yards off Nantasket Beach, Hull, MA.

FIREWORKS DISPLAY TABLE—Continued

June		
Maine: 6.1	A night during the Last week in June	Name: Windjammer Days Fireworks. Sponsor: Boothbay Harbor Chamber of Commerce. Time: 9 p.m. to 11 p.m. Location: Mcfarland Island, Boothbay Harbor, ME. 43°50′48″ N/069°37′36″ W (NAD 1983).
Connecticut: 6.2	A night during the Last week in June	Name: Barnum Festival Fireworks. Sponsor: The Barnum Foundation. Time: 8 p.m. to 10 p.m. Location: Seaside Park—Bridgeport Harbor, Bridgeport, CT. 43°11′30″ N/072°00′30″ W (NAD 1983).
Massachusetts: 6.3	Thursday prior to July 4th	Name: Boston Harborfest Fireworks. Sponsor: Harborfest Committee. Time: 9:30 p.m. to 10.30 p.m. Location: Just Off Coast Guard Base, Boston Harbor, MA 42°22′53″ N/71°02′56″ W (NAD 1983).
July		
Massachusetts: 7.1	Thursday prior to July 4th	Name: Boston Harborfest Fireworks. Sponsor: Harborfest Committee. Time: 9:30 p.m. to 10:30 p.m. Location: Just Off Coast Guard Base, Boston Harbor, MA 42°22′53″ N/71°02′56″ W (NAD 1983).
Connecticut: 7.2	A night during the First week in July (or Last week in June).	Name: American Legion Post 83 Fireworks. Sponsor: Town of Branford American Legion Post. Time: 9 p.m. to 10 p.m. Location: Branford Point, Branford, CT. 41°21′ N/072°05′20″ W (NAD 1983).
New York: 7.3	A night during the First week in July	Name: Devon Yacht Club Fireworks. Sponsor: Devon Yacht Club, Amagansett, NY. Time: 9:30 p.m. to 10 p.m. Location: Devon Yacht Club, Amagansett, NY. 40°00′00″ N/072°06′12″ W (NAD 1983).
Maine: 7.4	A night during the First two weeks in July.	Name: Schooner Days Fireworks. Sponsor: Town of Rockland Chamber of Commerce. Time: 8 p.m. to 10 p.m. Location: Rockland Harbor, Rockland, ME.
Connecticut: 7.5	A night during the First two weeks in July.	Name: Stamford Fireworks. Sponsor: City of Stamford. Time: 8 p.m. to 10 p.m. Location: Westcott Cove, Stamford, CT. 41°02′01″ N/73°30′3″ W (NAD 1983).
New York: 7.6	A night during the First two weeks in July.	Name: Town of Babylon Fireworks. Sponsor: Town of Babylon, NY. Time: 8 p.m. to 10 p.m. Location: Nezeras Island, Babylon, NY.
Massachusetts: 7.7	Friday or Saturday prior to July 4th	Name: Hingham 4th of July Fireworks. Sponsor: Town of Hingham, MA. Time: 8 p.m. to 10 p.m. Location: Hingham Harbor, Hingham, MA. 42°15′30″ N/70°53′2″ W (NAD 1983).
Massachusetts:		

FIREWORKS DISPLAY TABLE—Continued

7.8	Friday or Saturday prior to July 4th	Name: Weymouth 4th of July Fireworks. Sponsor: Town of Weymouth Harbormaster. Time: 8:30 p.m. to 10:45 p.m. Location: Weymouth Fore River, Weymouth, MA. 42°15′30″ N/70°56′6″ W (NAD 1983).
Vermont: 7.9	July 3rd	Name: Burlington Fireworks Display. Sponsor: City of Burlington, VT. Time: 8:30 p.m. to 11 p.m. Location: Lake Champlain, Burlington Bay, VT. A barge beside the Burlington Bay Breakwater. 44°28′30.5″ N/073°13′32″ W (NAD 1983).
Massachusetts: 7.10	July 3rd	Name: Gloucester Fireworks. Sponsor: Gloucester Chamber of Commerce. Time: 8 p.m. to 10 p.m. Location: Gloucester Harbor, Stage Fort Park, Gloucester, MA.
Connecticut: 7.11	July 3rd	Name: Summer Music Fireworks. Sponsor: Summer Music, Inc. Time: 8 p.m. to 10 p.m. Location: Off of Harkness Park, Long Island Sound, Waterford, CT. 41°18′00″ N/072°06′42″ W.
New York: 7.12	July 3rd	Name: Salute to Veterans. Sponsor: Town of North Hempstead, NY Time: 9 p.m. to 10 p.m. Location: Hempstead, NY. Point Lookout 40°35′34″ N/073°35′24″ W (NAD 1983).
Maine: 7.13	July 4th (Rain date: July 5th)	Name: Bangor Fireworks. Sponsor: Bangor 4th of July Corporation. Time: 9:30 p.m. to 10 p.m. Location: Bangor/Brewer waterfront, ME. 44°47′6″ N/068°11′8″ W (NAD 1983).
Maine: 7.14	July 4th	Name: Bar Harbor Fireworks. Sponsor: Bar Harbor Chamber of Commerce. Time: 8:30 p.m. to 9:30 p.m. Location: Bar Harbor/Bar Island, ME. 44°23′6″ N/068°11′8″ W (NAD 1983).
Maine: 7.15	July 4th	Name: Stewart's 4th of July Fireworks Display. Sponsor: W.P. Stewart. Time: 9 p.m. to 9:30 p.m. Location: Somes Sound, Northeast Harbor, ME. 44°18′3″ N/068°18′2″ W (NAD 1983).
Maine: 7.16	July 4th	Name: Walsh's Fireworks. Sponsor: Mr. Patrick Walsh. Time: 8:30 p.m. to 9:30 p.m. Location: Union River, Bay, ME. 44°23′5″ N/068°27′2″ W (NAD 1983).
Massachusetts: 7.17	July 4th	Name: Town of Barnstable Fireworks. Sponsor: Town of Barnstable. Time: 8 p.m. to 10 p.m. Location: Dunbar Point/Kalmus Beach, Barnstable, MA. 41°38′30″ N/070°16′ W (NAD 1983).
Massachusetts: 7.18	July 4th	Name: Beverly Farms Fireworks. Sponsor: Farms-Pride 4th of July Committee, Inc. Time: 8 p.m. to 10 p.m. Location: West Beach, Manchester Bay, Beverly Farms, MA. 42°33′51″ N/070°48′29″ W (NAD 1983).
Massachusetts:		

FIREWORKS DISPLAY TABLE—Continued

7.19	July 4th	Name: Edgartown Fireworks. Sponsor: Edgartown Firefighters Association. Time: 9 p.m. to 10 p.m. Location: Edgartown Harbor, Edgartown, MA. 41°23′25″ N/070°29′45″ W (NAD 1983).
Massachusetts: 7.20	July 4th	Name: Falmouth Fireworks. Sponsor: Falmouth Fireworks Committee Time: 9 p.m. to 10 p.m. Location: Falmouth Harbor, .25 NM east of buoy #16, Falmouth, MA. 41° – 23′12″ N/070°29′45″ W (NAD 1983).
Massachusetts: 7.21	July 4th	Name: Marion Fireworks. Sponsor: Town of Marion Harbormaster. Time: 8 p.m. to 10 p.m. Location: Silver Shell Beach, Marion, MA. 41°45′30″ N/070°45′24″ W (NAD 1983).
Massachusetts: 7.22	July 4th	Name: City of New Bedford Fireworks. Sponsor: City of New Bedford. Time: 9 p.m. to 10:30 p.m. Location: New Bedford Harbor, New Bedford, MA. 41°41′ N/070°40′ W (NAD 1983).
Massachusetts: 7.23	July 4th	Name: Onset Fireworks. Sponsor: Town of Wareham, MA. Time: 9 p.m. to 10 p.m. Location: Onset Harbor, Onset, MA. 41°38′ N/071°55′ W (NAD 1983).
Massachusetts: 7.24	July 4th	Name: Plymouth Fireworks Display. Sponsor: July Four Plymouth Inc. Time: 8 p.m. to 10 p.m. Location: Plymouth Harbor, Plymouth, MA. 41°57′20″ N/070°38′20″ W (NAD 1983).
Massachusetts: 7.25	July 4th	Name: Lewis Bay Fireworks. Sponsor: Town of Yarmouth, MA. Time: 9:30 p.m. to 10 p.m. Location: Great Island, Lewis Bay. 41°38′30″ N/071°17′06″ W (NAD 1983).
Rhode Island: 7.26	July 4th	Name: Bristol 4th of July Fireworks. Sponsor: Bristol 4th of July Committee. Time: 9:30 p.m. to 10 p.m. Location: Bristol Harbor, Bristol, RI. 41°39′54″ N/071°20′18″ W (NAD 1983).
Rhode Island: 7.27	July 4th	Name: City of Newport Fireworks. Sponsor: City of Newport Time: 9:15 p.m. to 10 p.m Location: 41°28′48″ N/071°20′18″ W (NAD 1983).
Rhode Island: 7.28	July 4th	Name: Oyster Harbor Club Fourth of July Festival. Sponsor: Oyster Harbor Club, Inc. Time: 6 p.m. to 10 p.m. Location: Tim's Cove, North Bay, Osterville, RI. 41°37′30″ N/070°23′21″ W (NAD 1983).
Rhode Island: 7.29	July 4th	Name: Slade Farms Fireworks. Sponsor: Slade Farm, Somerset, RI. Time: 9 p.m. to 11 p.m. Location: 41°43′36″ N/071°09′18″ W (NAD 1983).
Connecticut:		

FIREWORKS DISPLAY TABLE—Continued

7.30	July 4th	Name: Fairfield Aerial Fireworks. Sponsor: Fairfield Park Commission. Time: 8 p.m. to 10 p.m. Location: Jennings Beach, Long Island Sound, Fairfield, CT. 41°08′22″ N/073°14′02″ W.
Connecticut: 7.31	July 4th	Name: Subfest Fireworks. Sponsor: U.S. Naval Submarine Base. Time: 8 p.m. to 10 p.m. Location: Thames River, Groton, CT.
Connecticut: 7.32	July 4th	Name: Hartford Riverfest. Sponsor: July 4th Riverfest, Inc. Time: 8 p.m. to 10 p.m. Location: Connecticut River, Hartford, CT.
Connecticut: 7.33	July 4th	Name: Middletown Fireworks. Sponsor: City of Middletown. Time: 8 p.m. to 10 p.m. Location: Connecticut River, Middletown Harbor, Middletown, CT. 41°33′79″ N/073°38′83″ W (NAD 1983).
Connecticut: 7.34	July 4th	Name: Old Lyme Fireworks. Sponsor: Mr. James R. Rice. Time: 8 p.m. to 10 p.m. Location: Sound View Beach, Long Island Sound, Old Lyme, CT.
New York: 7.35	July 4th	Name: Bayville Crescent Club Fireworks. Sponsor: Bayville Crescent Club, Bayville, NY. Time: 8 p.m. to 10 p.m. Location: Cooper Bluff, Cove Neck, NY.
New York: 7.36	July 4th	Name: Montauk Independence Day. Sponsor: Montauk Chamber of Commerce. Time: 8 p.m. to 10 p.m. Location: Montauk Town Beach, Montauk, NY.
New York: 7.37	July 4th	Name: Jones Beach State Park Fireworks. Sponsor: Long Island State Park Administration Headquarters. Time: 9 p.m. to 10:15 p.m. Location: Fishing Pier, Jones Beach State Park, Wantagh, NY. 40°35′7″ N/073°30′6″ W (NAD 1983).
New York: 7.38	July 4th	Name: Dolan Family Fireworks. Sponsor: Mr. Charles F. Dolan. Time: 8 p.m. to 10 p.m. Location: Cove Point, Oyster Bay, NY.
Massachusetts 7.39	July 4th	Name: Wellfleet Fireworks. Sponsor: Wellfleet Fireworks Committee. Time: 8 p.m. to 11 p.m. Location: Indian Neck Jetty, Wellfleet, MA. 41°55′24″ N/070°02′06″ W (NAD 1983).
Connecticut: 7.40	Weekend following July 4th	Name: Thames River Fireworks. Sponsor: Town of Groton. Time: 8 p.m. to 10 p.m. Location: Thames River, off Electric Boat, Groton, CT.
New York:		

FIREWORKS DISPLAY TABLE—Continued

7.41	A night during the Second or Third weekend in July.	Name: Boys Harbor Fireworks Extravaganza. Sponsor: Boys Harbor Inc. Time: 9 p.m. to 10 p.m. Location: Three Mile Harbor, East Hampton, NY. 41°15′ N/070°11′91″ W (NAD 1983).
Maine: 7.42	Third Saturday in July	Name: Belfast Fireworks. Sponsor: Belfast Bay Festival Committee. Time: 8 p.m. to 10 p.m. Location: Belfast Bay, ME.
August		
Connecticut: 8.1	A night during the First week of August	Name: Summer Music Fireworks. Sponsor: Summer Music Inc. Time: 8 p.m. to 10 p.m. Location: Niantic River, Harkness Park, Waterford, CT.
Massachusetts: 8.2	A night during the First weekend in August.	Name: Fall River Celebrates America Fireworks. Sponsor: Fall River Chamber of Commerce. Time: 9:15 p.m. to 10 p.m. Location: Taunton River, vicinity of buoy #17, Fall River, MA 41°43′4″ N/071°09′48″ W (NAD 1983).
Connecticut: 8.3	A night during the First two weeks in August.	Name: Hartford Riverfront Regatta. Sponsor: Riverfront Recapture Inc. Time: 8 p.m. to 10 p.m. Location: Connecticut River, Hartford, CT.
Connecticut: 8.4	A night during the Third week in August	Name: Summer Music Fireworks. Sponsor: Summer Music Inc. Time: 8 p.m. to 10 p.m. Location: Niantic River, Harkness Park, Waterford, CT.
Massachusetts: 8.5	Last weekend in August	Name: Oaks Bluff Fireworks. Sponsor: Oaks Bluff Fireman's Civic Association. Time: 8 p.m. to 10 p.m. Location: Oaks Bluff Beach, Oaks Bluff, MA.
Connecticut: 8.6	Last Sunday in August	Name: Norwich Harbor Day Fireworks. Sponsor: Harbor Day Committee. Time: 8 p.m. to 10 p.m. Location: Norwich Harbor, off American, Wharf Marina, Norwich, CT.
Massachusetts: 8.7	A night during Labor day weekend	Name: Gloucester Fireworks. Sponsor: Gloucester Chamber of Commerce. Time: 8 p.m. to 10 p.m. Location: Gloucester Harbor, Stage Fort, Gloucester, MA.
Maine: 8.8	A night during Labor day weekend	Name: Camden Fireworks Display. Sponsor: Town of Camden Chamber of Commerce. Time: 8 p.m. to 10 p.m. Location: Camden Harbor, Camden, ME.
September		
Massachusetts: 9.1	A night during Labor day weekend	Name: Gloucester Fireworks. Sponsor: Gloucester Chamber of Commerce. Time: 8 p.m. to 10 p.m. Location: Gloucester Harbor, Stage Fort Park, Gloucester, MA.
Maine:		

FIREWORKS DISPLAY TABLE—Continued

9.2	A night during Labor day weekend	Name: Camden Fireworks Display. Sponsor: Town of Camden Chamber of Commerce. Time: 8 p.m. to 10 p.m. Location: Camden Harbor, Camden, ME.
Connecticut: 9.3	A night during the weekend following Labor day.	Name: Taste of Italy. Sponsor: Italian Heritage Committee. Time: 8 p.m. to 10 p.m. Location: Norwich Harbor, off Norwich Marina, Norwich, CT. 41°31′20″ N/073°04′83″ W (NAD 1983).
Rhode Island: 9.4	A night during the First weekend in September.	Name: Newport Salute to Summer. Sponsor: Naval Education and Training Center. Time: 8:30 p.m. to 10 p.m. Location: Narragansett Bay, East Passage, off Coasters Harbor Island, Newport, RI. 41°25′ N/071°20′ W (NAD 1983).
Connecticut: 9.5	First or Second Saturday in September	Name: Norwalk Oyster Festival Fireworks. Sponsor: Norwalk Seaport Association. Time: 8 p.m. to 10 p.m. Location: Norwalk Harbor, Norwalk, CT.
New York: 9.6	A night during the Last two weekends in September.	Name: Cow Harbor Day Fireworks. Sponsor: Village of Northport Harbor. Time: 8 p.m. to 10 p.m. Location: Sand Pit, Northport Harbor, Northport, NY.
	October	
Massachusetts: 10.1	A night during the Second weekend of October.	Name: Yarmouth Seaside Festival Fireworks. Sponsor: Yarmouth Seaside Festival. Time: 8 p.m. to 9 p.m. Location: Seagull Beach, W. Yarmouth, MA 41°38′06″ N/070°13′ 13″ W (NAD 1983).
	December	
Massachusetts: 12.1	December 31st	Name: First Night Fireworks. Sponsor: First Night Inc. Time: 11:45 p.m. to 12:30 a.m. Location: Center of Boston Inner Harbor, Boston, MA 42°21′42.4″ N/071°02′36.5″ W (NAD 1983).
Massachusetts: 12.2	December 31st	Name: First Night Martha′s Vineyard. Sponsor: Town of Martha′s Vineyard Chamber of Commerce. Time: 10 p.m. to 12:30 a.m. Location: Vineyard Haven Harbor, Martha′s Vineyard, MA 41°27′6″ N/070°35′8″ W (NAD 1983).
Massachusetts: 12.3	December 31st	Name: City of New Bedford First Night. Sponsor: City of New Bedford. Time: 11:45 p.m. to 12:30 a.m. Location: New Bedford Harbor, New Bedford, MA 41°38′.2″ N/070°55′0″ W (NAD 1983).
Connecticut: 12.4	December 31st	Name: First night Mystic. Sponsor: Mystic Community Center. Time: 11:45 p.m. to 12:30 a.m. Location: Mystic River, Mystic, CT.
Rhode Island: 12.5	December 31st	Name: Newport Fireworks. Sponsor: Newport Cultural Commission. Time: 11 p.m. to 1 a.m. Location: 41°28′48″ N/071°20′18″ W (NAD 1983).

* * * * *

PART 101—MARITIME SECURITY: GENERAL

■ 22. The authority citation for part 101 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 192; Executive Order 12656, 3 CFR 1988 Comp., p. 585; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

PART 101—[AMENDED]

■ 23. In part 101, remove the office symbol ''G–MP'' wherever it appears and add, in its place, the office symbol ''CG–54''.

§ 101.105 [Amended]

■ 24. In § 101.105, in definition of ''Area Maritime Security Committee'', remove the phrase ''09–02'' and add, in its place, the phrase ''09–02 change 2''.

§ 101.305 [Amended]

■ 25. In § 101.305(a), remove the phrase ''*direct telephone:* 202–372–2428; *Fax:* 202–372–2920, TDD: 202–267–4477, or use the NRC Web Reporting function located on the NRC Web Site: *http://www.nrc.uscg.mil/''* and add, in its place, the phrase ''direct telephone 202–267–2675, or TDD 202–267–4477''.

§ 101.415 [Amended]

■ 26. In § 101.415(b), remove the citation ''46 U.S.C. 70117'' and add, in its place, the citation ''46 U.S.C. 70119''.

§ 101.420 [Amended]

■ 27. In § 101.420(b), remove the office symbol ''G–MOC'' and add, in its place, the office symbol ''CG–543''.

§ 101.510 [Amended]

■ 28. In § 101.510—

■ a. In paragraph (b)(1), remove the phrase ''9–02'' and add, in its place, the phrase ''09–02 change 2''; and

■ b. In paragraph (b)(2), remove the phrase ''10–02'' and add, in its place, the phrase ''10–02 change 1''; and

■ c. In paragraph (b)(3), remove the phrase ''11–02'' and add, in its place, the phrase ''11–02 change 1''.

PART 104—MARITIME SECURITY: VESSELS

■ 29. The authority citation for part 104 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

■ 30. In § 104.106, add a new paragraph (c) to read as follows:

§ 104.106 Passenger access area.

* * * * *

(c) Passenger access areas may not include any areas defined as restricted areas in the VSP.

§ 104.130 [Amended]

■ 31. In § 104.130, remove the office symbol ''G–MP'' wherever it appears and add, in its place, the office symbol ''CG–54''.

§ 104.205 [Amended]

■ 32. In § 104.205—

■ a. In paragraph (b)(1), remove the phone numbers ''202–372–2428; Fax: 202–372–2920'' and add, in its place, the phone numbers ''202–267–2675; Fax: 202–267–1322''; and

■ b. In paragraph (b)(3), remove the office symbol ''G–MP'' and add, in its place, the office symbol ''CG–54''.

§ 104.292 [Amended]

■ 33. In § 104.292—

■ a. In paragraph (b), remove the reference ''§ 104.265(e)(1), (e)(3), and (e)(8)'' and add, in its place, the reference ''§ 104.265(f)(2), (f)(4), and (f)(9)'';

■ b. In paragraph (e)(3), remove the reference ''§ 104.265(e)(3) and (f)(1)'' and add, in its place, the reference ''§ 104.265(f)(4) and (g)(1)''; and

■ c. In paragraph (f), remove the reference ''§ 104.265(e)(3) and § 104.265(g)(1)'' and add, in its place, the reference ''§ 104.265(f)(4) and (h)(1)''.

PART 105—MARITIME SECURITY: FACILITIES

■ 34. The authority citation for part 105 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. 70103; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

§ 105.130 [Amended]

■ 35. In § 105.130, remove the office symbol ''G–MP'' wherever it appears and add, in its place, the office symbol ''CG–54''.

PART 110—ANCHORAGE REGULATIONS

■ 36. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, and 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 37. Add a new § 110.59 to read as follows:

§ 110.59 Eastern Long Island, NY.

(a) *Huntington Harbor.* Beginning on the shoreline at latitude 40°54′19.5″, longitude 73°26′07.9″; thence to latitude 40°54′19.5″, longitude 73°26′02.4″; thence along the eastern shoreline to the Mill Dam Road Bridge; thence along the downstream side of the bridge to the westerly side of Huntington Harbor; thence along the western shoreline to the point of beginning.

(b) *Centerport Harbor.* Beginning at the shoreline at latitude 40°54′00″ , longitude 73°22′55.3″; thence to latitude 40°54′03.8″, longitude 73°22′52.1″; thence along the eastern shoreline to the Mill Dam Bridge; thence along the downstream side of the bridge to the westerly side of Centerport Harbor; thence along the western shoreline to the point of beginning.

(c) *Northport Harbor.* Beginning on the shoreline at latitude 40°54′25″ , longitude 73°22′05″ ; thence to latitude 40°54′37.5″, longitude 73°21′32.9″; thence along the eastern shoreline to latitude 40°53′33.1″, longitude 72°21′28.2″; thence to latitude 40°53′25.8″, longitude 73°21′37.7″; thence along the shoreline to the point of beginning.

Note: The areas designated by paragraphs (a), (b), and (c) of this section are principally for vessels used for a recreational purpose. A vessel shall be anchored so that no part of the vessel comes within 50 feet of the marked channel. A temporary float or buoy for marking the location of the anchor of a vessel at anchor may be used. Fixed mooring piles or stakes are prohibited.

(d) *Cold Spring Harbor.* That portion of the waters of Cold Spring Harbor easterly of a line ranging from the cupola in the extreme inner harbor through Cold Spring Harbor Light; southerly of a line ranging from the southernmost point of an L-shaped pier off Wawepex Grove through the Clock Tower at Laurelton and northerly of a line ranging from the outer end of the Socony Mobil Oil Company's pier at Cold Spring Harbor through the Clock Tower at Laurelton, with the exception of an area within a 300-foot radius of the outer end of the Socony Mobil Oil Company's pier.

(e) *Oyster Bay Harbor, New York.* That portion of Oyster Bay Harbor adjacent to the easterly side of Centre Island, westerly of a line on range with Cold Spring Harbor Light and the Stone House on the end of Plum Point, Centre Island.

(f) *Harbor of Oyster Bay, Oyster Bay, New York.* The water area north of the town of Oyster Bay enclosed by a line beginning on the shoreline at latitude 40°52′35.5″ N., longitude 73°32′17″ W.; thence to latitude 40°52′59.5″ N.,

longitude 73°32′18″ W.; thence to latitude 40°53′00″ N., longitude 73°30′53″ W.; thence to latitude 40°52′39″ N., longitude 73°30′54″ W.; thence to the shoreline at latitude 40°52′25″ N., longitude 73°31′18″ W.; thence following the shoreline to the point of beginning.

(g) *Harbor of Oyster Bay, New York, Moses Point to Brickyard Point.* That portion of the waters of the Harbor of Oyster Bay enclosed by a line beginning at Moses Point on Centre Island at latitude 40°53′11″ N., longitude 73°31′14″ W.; thence to latitude 40°53′02″ N., longitude 73°31′22″ W.; thence to latitude 40°53′02″ N., longitude 73°32′00″ W.; thence to Brickyard Point on Centre Island at 40°53′06″ N., longitude 73°32′00″ W.; thence following the shoreline to the point of beginning.

Note: The anchoring of vessels and placement of temporary moorings in anchorage areas described in paragraph (g) of this section will be under the jurisdiction of the local Harbormaster appointed in accordance with Article 12 of the Village Ordinance of the Village of Centre Island, New York.

(h) *Coecles Harbor at Shelter Island, New York.* That portion of Coecles Harbor bounded on the North by a line drawn between the northernmost point of land at Sungic Point and latitude 41°04′09″ North, longitude 72°17′54″ West, thence eastward along the shoreline to the point of origin.

(i) *West Neck Harbor at Shelter Island, New York.* That portion of West Neck Harbor bounded on the North by a line drawn between latitude 41°02′48″ North, longitude 72°20′27″ West and a point on Shell Beach located at latitude 41°02′29″ North, longitude 72°20′59″ West; thence eastward along the shoreline to the point of origin.

■ 38. Revise § 110.60 to read as follows:

§ 110.60 Captain of the Port, New York.

(a) *Western Long Island Sound.* (1) *Glen Island.* All waters surrounding Glen Island bound by the following points: 40°52′53.1″ N, 073°46′58.9″ W; thence to 40°52′46.6″ N, 073°47′02.7″ W; thence to a line drawn from 40°53′23.3″ N 073°47′01.5″ W to 40°53′19.0″ N 073°46′56.2″ W, excluding all waters within 25 feet of the 50-foot channel west and south of Glen Island.

(2) *Echo Bay.* All waters northwest of a line drawn from 40°54′10.0″ N, 073°45′52.9″ W to 40°54′25.0″ N, 073°45′38.4″ W.

Note: An ordinance of the Town of New Rochelle NY requires a permit from the New Rochelle Harbor Master or the New Rochelle Superintendent of Bureau of Marinas, Docks and Harbors before any mooring is placed in this special anchorage area.

(3) *Glen Island, East.* All waters east of Glen Island, bound by the following points: 40°53′01.4″ N, 073°46′51.4″ W; thence to 40°53′03.1″ N, 073°46′44.4″ W; thence to 40°53′06.2″ N, 073°46′38.0″ W; thence to 40°53′15.0″ N, 073°46′44.0″ W; thence along the shoreline to the point of origin.

(4) *City Island, Eastern Shore.* All waters bound by the following points: 40°50′12.0″ N, 073°46′57.3″ W; thence to 40°50′31.9″ N, 073°46′18.3″ W; thence to 40°51′17.0″ N, 073°46′49.9″ W; thence to 40°51′19.8″ N, 073°46′51.3″ W; thence to 40°51′47.0″ N, 073°47′02.5″ W; thence to 40°51′28.5″ N, 073°47′31.7″ W; thence to 40°51′25.1″ N, 073°47′29.9″ W; thence along the shoreline to the point of origin, excluding the Cable and Pipeline Area between City and Hart Islands.

(5) *City Island, Western Shore.* All waters bound by the following points: 40°50′11.6″ N, 073°46′58.4″ W; thence to 40°50′02.5″ N, 073°47′23.3″ W; thence to 40°50′43.7″ N, 073°47′56.0″ W; thence to 40°51′15.9″ N, 073°47′36.0″ W; thence to 40°51′15.9″ N, 073°47′28.6″ W; thence along the shoreline to the point of origin.

(6) *Eastchester Bay, Western Shore.* All waters shoreward of a line connecting the following points: 40°49′31.3″ N, 073°48′26.3″ W; thence to 40°50′56.4″ N, 073°48′49.2″ W; thence to 40°50′55.3″ N, 073°48′55.4″ W; thence along the shoreline to the point of origin.

(7) *Eastchester Bay, Locust Point.* All waters west of a line drawn from 40°48′56.3″ N, 073°47′56.2″ W to 40°48′34.4″ N, 073°47′56.2″ W.

(8) *Manhasset Bay, Plum Point.* All waters bound by the following points: 40°50′02.9″ N, 073°43′37.3″ W; thence to 40°49′54.0″ N, 073°43′14.9″ W; thence to 40°50′06.6″ N, 073°42′51.0″ W; thence to 40°50′18.6″ N, 073°42′51.0″ W; thence along the shoreline to the point of origin; excluding the seaplane restricted area described in § 162.

(9) *Manhasset Bay, Toms Point.* All waters bound by the following points: 40°50′20.6″ N, 073°42′49.5″ W; thence to 40°50′05.3″ N, 073°42′49.4″ W; thence to 40°49′58.6″ N, 073°42′39.0″ W; thence to 40°49′48.9″ N, 073°42′55.6″ W; thence to 40°49′49.3″ N, 073°42′20.4″ W; thence to 40°50′02.5″ N, 073°42′14.2″ W; thence to 40°50′11.8″ N, 073°42′15.4″ W; thence along the shoreline to the point of origin.

(10) *Manhasset Bay, at Port Washington.* All waters bound by the following points: 40°49′44.9″ N, 073°42′11.3″ W; thence to 40°49′44.3″ N, 073°43′03.2″ W; thence to 40°49′06.8″ N, 073°42′46.6″ W; thence to 40°49′07.0″ N, 073°42′16.2″ W; thence along the shoreline to the point of origin.

(11) *Manhasset Bay, West Shore.* All waters bound by the following points: 40°49′24.6″ N, 073°43′40.2″ W; thence to 40°49′33.2″ N, 073°43′28.3″ W; thence to 40°49′43.8″ N, 073°43′53.5″ W; thence to 40°49′39.2″ N, 073°43′57.9″ W; thence along the shoreline to the point of origin.

(12) *Manhasset Bay, Plandome.* All waters bound by the following points: 40°48′41.6″ N, 073°42.31.7″ W; thence to 40°48′43.6″ N, 073°42′42.5″ W; thence to 40°48′29.0″ N, 073°42′44.4″ W; thence to 40°48′27.6″ N, 073°42′44.4″ W; thence along the shoreline to the point of origin.

(13) *Elm Point.* All waters bound by the following points: 40°49′01.0″ N, 073°45′41.9″ W; thence to 40°49′04.4″ N, 073°45′45.3″ W; thence to 40°49′13.8″ N, 073°45′38.7″ W; thence to 40°49′18.9″ N, 073°45′28.3″ W; thence to 40°49′08.9″ N, 073°45′17.5″ W; thence along the shoreline to the point of origin.

Note: Temporary floats or buoys for marking anchors in place are allowed. Fixed mooring piles or stakes are prohibited. An ordinance of the village of Kings Point regulates mooring and anchoring in the area which includes this special anchorage area.

(14) *Little Neck Bay.* All waters east of a line drawn from 40°47′39.4″ N, 073°46.27.1″ W; thence to 40°48′36.6″ N, 073°45′58.5″ W; thence to 40°48′36.4″ N, 073°45.48.4″ W; thence along the shoreline to the point of origin.

(15) *Hempstead Harbor, Mosquito Neck.* All waters bound by the following points: 40°51′43.0″ N, 073°39′37.1″ W; thence to 40°51′09.4″ N, 073°39′32.4″ W; thence to 40°51′14.6″ N, 073°39′08.9″ W; thence to 40°51′20.0″ N, 073°38′56.1″ W; thence along the shoreline and breakwater to the point of origin.

(16) *Hempstead Harbor, Sea Cliff.* All waters bound by the following points: 40°51′16.7″ N, 073°38′51.9″ W; thence to 40°51′12.9″ N, 073°39′07.2″ W; thence to 40°51′03.6″ N, 073°39′31.6″ W; thence to 40°50′24.7″ N, 073°39′26.4″ W; thence along the shoreline to the point of origin.

(b) *East River and Flushing Bay.* (l) *Flushing Bay, College Point North.* All waters bound by the following points: 40°47′37.5″ N, 073°51′13.4″ W; thence to 40°47′10.3″ N, 073°51′34.0″ W; thence to 40°47′09.1″ N, 073°51′32.6″ W; thence along the shoreline to the point of origin.

(2) *Flushing Bay, College Point South.* All waters bound by the following points: 40°47′01.8″ N, 073°51′29.2″ W; thence to 40°47′01.8″ N, 073°51′33.2″ W; thence to 40°46′31.7″ N, 073°51′15.9″ W;

thence to 40°46′46.1″ N, 073°50′58.6″ W; thence along the shoreline to the point of origin.

(3) *Flushing Bay, Cape Ruth.* All waters bound by the following points: 40°46′39.9″ N, 073°50′56.1″ W; thence to 40°46′29.2″ N, 073°51′14.3″ W; thence to 40°46′12.3″ N, 073°51′04.3″ W; thence to 40°46′15.2″ N, 073°50′55.2″ W; thence along the shoreline to the point of origin.

(4) *Flushing Bay, Southeast Area.* All waters south of a line drawn from 40°45′41.4″ N, 073°50′57.2″ W to 40°45′51.7″ N, 073°50′34.2″ W.

(5) *Flushing Bay, Southwest Area.* All waters bound by the following points: 40°45′36.7″ N, 073°51′16.3″ W; thence to 40°45′48.5″ N, 073°50′58.4″ W; thence to 40°45′51.3″ N, 073°50′59.2″ W; thence to 40°45′49.4″ N, 073°51′07.5″ W; thence to 40°45′58.7″ N, 073°51′13.4″ W; thence to 40°46′02.1″ N, 073°50′20.1″ W; thence to 40°45′54.8″ N, 073°51′28.7″ W; thence to 40°45′46.2″ N, 073°51′35.3″ W; then northward along the shoreline and breakwater to the point of origin.

(6) *Flushing Bay, West Area.* All waters bound by the following points: 40°46′51.1″ N, 073°52′07.3″ W; thence to 40°47′11.2″ N, 073°51′47.1″ W; thence to 40°47′01.9″ N, 073°51′39.6″ W; thence to 40°46′28.3″ N, 073°51′20.0″ W; thence to the point of origin.

Note: The anchoring of vessels and placing of temporary moorings in anchorage areas described in paragraphs (b)(5) and (b)(6) of this section will be under the jurisdiction, and at the discretion of the local Harbor Master appointed by the City of New York.

(7) *Bowery Bay.* All waters bound by the following points: 40°46′58.4″ N, 073°53′44.1″ W; thence to 40°47′03.3″ N, 073°53′37.4″ W; thence to 40°47′00.3″ N, 073°53′29.3″ W; thence to 40°46′57.0″ N, 073°53′29.8″ W; thence to 40°46′59.9″ N, 073°53′34.2″ W; thence to 40°46′58.5″ N, 073°53′35.8″ W; thence to 40°46′57.1″ N, 073°53′33.8″ W; thence to 40°46′55.9″ N, 073°53′35.2″ W; thence to 40°46′58.2″ N, 073°53′39.0″ W; thence to 40°46′56.1″ N, 073°53′41.4″ W; thence along the shoreline and pier to the point of origin.

(c) *Hudson River.* (1) *Yonkers, Greystone Station.* All waters bound by the following points: 40°58′19.8″ N, 073°53′22.8″ W; thence to 40°58′21.1″ N, 073°53′28.7″ W; thence to 40°58′42.7″ N, 073°53′20.3″ W; thence to 40°58′41.8″ N, 073°53′15.4″ W; thence along the shoreline to the point of origin.

(2) *Yonkers, North Glenwood.* All waters bound by the following points: 40°57′26.8″ N, 073°53′46.6″ W; thence to 40°57′27.3″ N, 073°53′48.8″ W; thence to 40°57′55.3″ N, 073°53′34.4″ W; thence to 40°57′53.6″ N, 073°53′28.6″ W; thence along the shoreline to the point of origin.

(3) *Nyack.* That portion of the Hudson River bound by the following points: 41°06′06.8″ N, 073°54′55.5″ W; thence to 41°06′06.8″ N, 073°54′18.0″ W; thence to 41°05′00.0″ N, 073°54′18.0″ W; thence to 41°05′00.0″ N, 073°55′02.2″ W; thence along the shoreline to the point of origin (NAD 1983), excluding a fairway in the charted cable area that is marked with buoys.

Note: The area is principally for use by yachts and other recreational craft. A mooring buoy is permitted.

(4) *Manhattan, Fort Washington Point.* All waters bound by the following points: 40°51′08.1″ N, 073°56′36.7″ W; thence to 40°51′09.4″ N, 073°56′40.9″ W; thence to 40°52′08.3″ N, 073°55′56.6″ W; thence along the shoreline to the point of origin.

(5) *Yonkers, Main Street.* All waters bound by the following points 40°56′15.4″ N, 073°54′11.2″ W; thence to 40°56′16.7″ N, 073°54′20.2″ W; thence to 40°56′08.9″ N, 073°54′22.6″ W; thence to 40°56′07.9″ N, 073°54′16.9″ W; thence to 40°56′07.0″ N, 073°54′17.3″ W.

(6) *Yonkers, JFK Marina.* All waters bound by the following points: 40°57′28.5″ N, 073°53′46.0″ W; thence to 40°57′30.5″ N, 073°53′56.8″ W; thence to 40°57′07.5″ N, 073°54′06.2″ W; thence to 40°57′08.0″ N, 073°53′58.5″ W; thence along the shoreline to the point of origin.

Note: The areas designated by paragraphs (c)(5) and (c)(6) are limited to vessels no greater than 20 meters in length and is primarily for use by recreational craft on a seasonal or transient basis. These regulations do not prohibit the placement of moorings within the anchorage area, but requests for the placement of moorings should be directed to the local government to ensure compliance with local and state laws. All moorings shall be so placed that no vessel, when anchored, will at any time extend beyond the limits of the area. Fixed mooring piles or stakes are prohibited. Mariners are encouraged to contact the local harbormaster for any additional ordinances and to ensure compliance with additional applicable state and local laws.

(7) *Hastings-on-Hudson.* All waters bound by the following points: 40°59′56.0″ N, 073°53′05.4″ W; thence to 40°59′56.3″ N, 073°53′09.6″ W; thence to 41°00′05.1″ N, 073°53′09.2″ W; thence to 41°00′14.7″ N, 073°53′06.4″ W; thence to 41°00′14.5″ N, 073°53′00.5″ W; thence along the shoreline to the point of origin.

(8) *Tarrytown.* All waters bound by the following points: 41°04′21.0″ N, 073°52′03.4″ W; thence to 41°04′21.0″ N, 073°52′11.3″ W; thence to 41°04′13.6″ N, 073°52′11.0″ W; thence to 41°04′13.6″ N, 073°52′00.5″ W; thence along the shoreline to the point of origin.

(9) *West Point.* All waters west of a line drawn from 41°23′10.0″ N, 073°57′18.1″ W to 41°23′23.5″ N, 073°57′11.5″ W.

(10) *Haverstraw.* That portion of the Hudson River bound by the following points: 41°11′25.2″ N, 073°57′19.9″ W; thence to 41°11′34.2″ N, 073°57′00.8″ W; thence to 41°11′41.9″ N, 073°57′07.5″ W; thence to 41°11′31.8″ N, 073°57′26.5″ W; thence to 41°11′30.8″ N, 073°57′24.9″ W; thence to the point of origin.

(11) *Cedar Hill.* All waters bound by the following points: 42°32′33.1″ N, 073°45′33.1″ W; thence to 42°32′33.1″ N, 073°45′28.3″ W; thence to 42°32′49.2″ N, 073°45′26.6″ W; thence to 42°32′49.3″ N, 073°45′31.1″ W; thence along the shoreline to the point of origin.

(d) *New York Harbor.* (1) *Newark Bay, Southeast.* All waters bound by the following points: 40°39′27.9″ N, 074°08′07.1″ W; thence to 40°39′31.7″ N, 074°08′13.4″ W; thence to 40°39′31.4″ N, 074°08′24.6″ W; thence to 40°39′52.4″ N, 074°08′11.7″ W; thence to 40°39′47.8″ N, 074°07′59.4″ W; thence along the shoreline to the point of origin.

(2) *Newark Bay, Southwest.* All waters bound by the following points: 40°38′52.1″ N, 074°09′41.1″ W; thence to 40°38′51.6″ N, 074°10′18.2″ W; thence to 40°38′51.0″ N, 074°10′36.5″ W; thence to 40°39′16.8″ N, 074°09′56.3″ W; thence to 40°39′16.2″ N, 074°09′36.9″ W; thence to the point of origin, excluding therefrom the ''Pipe Line Area''.

(3) *Great Kills Harbor.* All waters northeast of a line connecting the following points: 40°32′06.4″ N, 074°08′24.5″ W; thence to 40°32′06.9″ N, 074°08′25.8″ W; thence to 40°32′19.0″ N, 074°08′21.1″ W; thence to 40°32′28.1″ N, 074°08′24.3″ W; thence to 40°32′40.3″ N, 074°08′08.4″ W; thence to 40°32′45.2″ N, 074°08′11.4″ W; thence along the northern and eastern shoreline to the point of origin.

Note: The special anchorage area is principally for use by yachts and other recreational craft. A temporary float or buoy for marking the location of the anchor of a vessel at anchor may be used. Fixed mooring piles or stakes are prohibited. Vessels shall be anchored so that no part of the vessel comes within 50 feet of the marked channel.

(4) *Jamaica Bay, Canarsie Beach.* All waters bound by the following points: 40°37′22.0″ N, 073°53′43.5″ W; thence to 40°37′18.4″ N, 073°53′32.9″ W; thence to 40°37′37.6″ N, 073°53′06.5″ W; thence to 40°37′42.9″ N, 073°53′14.4″ W; thence along the shoreline to the point of origin.

(5) *Jamaica Bay, East Broad Channel.* All waters bound by the following points: 40°35′48.5″ N, 073°49′12.5″ W; thence to 40°35′50.2″ N, 073°49′04.7″ W; thence to 40°36′23.4″ N, 073°48′56.3″ W;

thence along the shoreline to the point of origin.

Note: The area will be principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed.

(6) *Sheepshead Bay, West.* All waters bound by the following points: 40°35′00.0″ N, 073°56′54.8″ W; thence to 40°34′58.9″ N, 073°57′09.6″ W; thence to 40°34′56.6″ N, 073°57′09.1″ W; thence to 40°34′57.5″ N, 073°56′54.4″ W; thence to the point of origin.

(7) *Sheepshead Bay, North.* All waters bound by the following points: 40°34′58.5″ N, 073°56′00.5″ W; thence to 40°34′58.6″ N, 073°56′26.0″ W; thence to 40°34′56.6″ N, 073°56′26.8″ W; thence to 40°34′54.8″ N, 073°56′24.8″ W; thence to 40°34′55.4″ N, 073°56′10.1″ W; thence to 40°34′57.9″ N, 073°56′00.5″ W; thence to the point of origin.

(8) *Sheepshead Bay, South.* All waters bound by the following points: 40°34′54.2″ N, 073°56′01.8″ W; thence to 40°34′53.6″ N, 073°56′27.2″ W; thence to 40°34′55.8″ N, 073°56′43.6″ W; thence to 40°34′54.5″ N, 073°56′43.6″ W; thence to 40°34′52.0″ N, 073°56′34.0″ W; thence to 40°34′53.1″ N, 073°56′01.6″ W; thence to the point of origin.

(9) *Lower Bay, Point Comfort.* All waters bound by the following points: 40°27′18.5″ N, 074°08′24.5″ W; thence to 40°27′37.4″ N, 074°08′51.8″ W; thence to 40°27′51.4″ N, 074°08′31.9″ W; thence to 40°27′49.7″ N, 074°07′44.9″ W; thence to 40°27′15.3″ N, 074°07′45.7″ W; thence along the shoreline to the point of origin.

(10) *Perth Amboy, NJ.* All waters bound by the following points: 40°30′18.5″ N, 074°15′45.1″ W; thence to 40°30′16.6″ N, 074°15′37.8″ W; thence to 40°30′03.0″ N, 074°15′43.5″ W; thence to 40°29′36.4″ N, 074°16′07.9″ W; thence to 40°29′31.1″ N, 074°16′20.2″ W; thence to 40°29′47.1″ N, 074°16′48.8″ W; thence to 40°30′02.0″ N, 074°16′40.3″ W; thence along the shoreline to the point of origin.

(e) *Datum.* All positions are NAD 1983.

§ 110.155 [Amended]

■ 39. In § 110.155—

■ a. Revise paragraph (h) to read as set out below; and

■ b. In paragraph (j)(1), remove ''longitude 74°15′13″'' and add, in its place, ''longitude 74°15′30″''.

§ 110.155 Port of New York.

* * * * *

(h) *Newark Bay.* (1) *Anchorage No. 34.* All waters bound by the following points: 40°38′51.5″ N, 074°10′35.6″ W; thence to 40°39′20.2″ N, 074°09′50.8″ W; thence to 40°39′41.4″ N, 074°09′30.2″ W; thence to 40°39′29.6″ N, 074°08′58.0″ W; thence to 40°39′21.7″ N, 074°08′50.8″ W; thence to 40°39′08.0″ N, 074°08′58.9″ W; thence to 40°38′49.9″ N, 074°09′20.0″ W; thence to 40°38′53.5″ N, 074°09′37.1″ W; thence to 40°38′52.0″ N, 074°09′41.6″ W; thence to the point of origin (NAD 83).

(2) [Reserved]

(3) *Anchorage No. 36.* All waters bound by the following points: 40°41′13.1″ N, 074°08′06.1″ W; thence to 40°41′12.7″ N, 074°08′09.9″ W; thence to 40°40′51.0″ N, 074°08′29.7″ W; thence to 40°40′44.7″ N, 074°08′29.8″ W; thence to 40°40′34.0″ N, 074°08′12.0″ W; thence to 40°40′36.6″ N, 074°08′04.8″ W; thence to 40°40′54.5″ N, 074°07′56.5″ W; thence to 40°41′03.3″ N, 074°07′56.5″ W; thence to the point of origin (NAD 83).

(4) *Anchorage No. 37.* North of the Central Railroad of New Jersey bridge; east of a line ranging from a point 200 yards east of the east pier of the east lift span of the bridge to a point 200 yards east of the east end of the lift span of the Pennsylvania-Lehigh Valley Railroad bridge; and south of the latter bridge.

Note: A portion of this general anchorage is described as a special anchorage in § 110.60(q).

* * * * *

§ 110.245 [Amended]

■ 40. In § 110.245 paragraph (b)(2), remove the phrase ''Greater Antilles Section, U.S. Coast Guard Base, San Juan, Puerto Rico'' and add, in its place, the phrase ''Coast Guard Sector San Juan, Puerto Rico''.

§ 110.250 [Amended]

■ 41. In § 110.250 paragraph (b)(9), remove the phrase ''The U.S. Coast Guard Captain of the Port of St. Thomas'' and add, in its place, the phrase ''The Coast Guard Captain of the Port San Juan''.

PART 114—GENERAL

■ 42. Revise the authority citation for part 114 to read as follows:

Authority: 33 U.S.C. 401, 406, 491, 494, 495, 499, 502, 511, 513, 514, 516, 517, 519, 521, 522, 523, 525, 528, 530, 533, and 535(c), (e), and (h); 14 U.S.C. 633; 49 U.S.C. 1655(g); Pub. L. 107–296, 116 Stat. 2135; 33 CFR 1.05–1 and 1.01–60, Department of Homeland Security Delegation Number 0170.1.

■ 43. Revise § 114.01 to read as follows:

§ 114.01 Purpose.

(a) The purpose of the rules and regulations in this subchapter is to implement certain laws and set forth the requirements for:

(1) Locations and clearances of bridges and causeways over the navigable waters;

(2) Administration of the alteration of unreasonably obstructive bridges; and

(3) Regulation of drawbridge operation.

(b) The rules and regulations in this subchapter also describe the procedures and practices, including forms and instructions, which are applicable to the public subject to certain laws governing bridges and causeways over the navigable waters of the United States.

§ 114.50 [Amended]

■ 44. In § 114.50, remove the phrase ''Chief, Office of Bridge Administration'' and add, in its place, the phrase ''Administrator, Bridge Administration Program''.

PART 115—BRIDGE LOCATIONS AND CLEARANCES; ADMINISTRATIVE PROCEDURES

■ 45. The authority citation for part 115 continues to read as follows:

Authority: c. 425, sec. 9, 30 Stat. 1151 (33 U.S.C. 401); c. 1130, sec. 1, 34 Stat. 84 (33 U.S.C. 491); sec. 5, 28 Stat. 362, as amended (33 U.S.C. 499); sec. 11, 54 Stat. 501, as amended (33 U.S.C. 521); c. 753, Title V, sec. 502, 60 Stat. 847, as amended (33 U.S.C. 525); 86 Stat. 732 (33 U.S.C. 535); 14 U.S.C. 633; sec. g(6), 80 Stat. 941 (49 U.S.C. 1655(g)); 49 CFR 1.46(c).

§ 115.60 [Amended]

■ 46. In § 115.60—

■ a. Remove the word ''hearing'' wherever it appears and add, in its place, the word ''meeting''; and

■ b. Remove the word ''hearings'' wherever it appears and add, in its place, the word ''meetings''.

PART 116—ALTERATION OF UNREASONABLY OBSTRUCTIVE BRIDGES

■ 47. The authority citation for part 116 continues to read as follows:

Authority: 33 U.S.C. 401, 521; 49 U.S.C. 1655(g); 49 CFR 1.4, 1.46(c).

Part 116—[Amended]

■ 48. In part 116—

■ a. Remove the word ''hearing'' wherever it appears and add, in its place, the word ''meeting''; and

■ b. Remove the word ''hearings'' wherever it appears and add, in its place, the word ''meetings''; and

■ c. Remove the phrase ''Chief, Office of Bridge Administration'' wherever it appears and add, in its place, the phrase ''Administrator, Bridge Administration Program''.

§ 116.55 [Amended]

■ 49. In § 116.55(b), remove the phrase ''Chief's, Office of Bridge Administration'' and add, in its place, the phrase ''Administrator's, Bridge Administration Program''.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

§ 117.785 [Amended]

■ 51. In § 117.785(c), remove the phrase ''Stutson Street bridge'' and add, in its place, the phrase ''Colonel Patrick Henry O'Rorke Memorial Bridge''.

PART 118—BRIDGE LIGHTING AND OTHER SIGNALS

■ 52. The authority citation for part 118 continues to read as follows:

Authority: 33 U.S.C. 494; 14 U.S.C. 85, 633; Department of Homeland Security Delegation No. 0170.1.

§ 118.3 [Amended]

■ 53. In § 118.3 (b), remove the phrase ''Office of Bridge Administration (G–OPT)'' and add, in its place, the phrase ''Administrator, Bridge Administration Program''.

PART 126—HANDLING OF DANGEROUS CARGO AT WATERFRONT FACILITIES

■ 54. The authority citation for part 126 continues to read as follows:

Authority: 3 U.S.C. 1231; 49 CFR 1.46.

■ 55. In § 126.3, revise the definition of ''Dangerous Cargo'' to read as follows:

§ 126.3 Definitions.

* * * * *

Dangerous cargo means all hazardous materials listed in 49 CFR parts 170 through 179, except those materials preceded by an ''A'' in the Hazardous Materials Table in 49 CFR 172.101, and all cargo listed in 46 CFR part 148.

* * * * *

PART 135—OFFSHORE OIL POLLUTION COMPENSATION FUND

■ 56. The authority citation for part 135 continues to read as follows:

Authority: 33 U.S.C. 2701–2719; E.O. 12777, 56 FR 54757; Department of Homeland Security Delegation No. 0170.1, para. 2(80).

§ 135.305 [Amended]

■ 57. In § 135.305(a)(1), remove the phrase ''2100 Second Street, SW., Washington, DC 20593–0001, toll free telephone number 800–424–8802'' and add, in its place, the phrase ''Room 2111, 2100 Second Street, SW, Washington, DC 20593–0001, *toll free telephone number:* 800–424–8802, *direct telephone:* 202–267–2675, or *Fax:* 202–267–1322.''.

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTNCES GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

■ 58. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1321, 1903, 1908; 46 U.S.C. 6101; Pub. L. 104–227 (110 Stat. 3034); E.O. 12,777, 3 CFR, 1991 Comp. p. 351; Department of Homeland Security Delegation No. 0170.1.

§ 151.05 [Amended]

■ 59. In § 151.05, in paragraph (4) of the definition of ''Oceangoing ship'', remove the number ''2.05'', and add, in its place, the number ''2.22''.

■ 60. Amend § 151.06 by revising paragraphs (a)(8) and (a)(9) and adding paragraphs (a)(10) through (a)(12) to read as follows:

§ 151.06 Special areas.

(a) * * *

(8) *The North West European waters* mean the North Sea and its approaches, the Irish Sea and its approaches, the Celtic Sea, the English Channel and its approaches and part of the North East Atlantic immediately to the west of Ireland. The area is bounded by lines joining the following points:

48°27′ N on the French coast
48°27′ N; 006°25′ W
49°52′ N; 007°44′ W
50°30′ N; 012° W
56°30′ N; 012° W
62° N; 003° W
62°′ N on the Norwegian coast
57°44′.8 N on the Danish and Swedish coasts.

(9) *The Oman area of the Arabian Sea* means the sea enclosed by the following co-ordinates:

22°30′.00 N; 059°48′.00 E
23°47′.27 N; 060°35′.73 E
22°40′.62 N; 062°25′.29 E
21°47′.40 N; 063°22′.22 E
20°30′.37 N; 062°52′.41 E
19°45′.90 N; 062°25′.97 E
18°49′.92 N; 062°02′.94 E
17°44′.36 N; 061°05′.53 E
16°43′.71 N; 060°25′.62 E
16°03′.90 N; 059°32′.24 E
15°15′.20 N; 058°58′.52 E
14°36′.93 N; 058°10′.23 E
14°18′.93 N; 057°27′.03 E
14°11′.53 N; 056°53′.75 E
13°53′.80 N; 056°19′.24 E
13°45′.86 N; 055°54′.53 E
14°27′.38 N; 054°51′.42 E
14°40′.10 N; 054°27′.35 E
14°46′.21 N; 054°08′.56 E
15°20′.74 N; 053°38′.33 E
15°48′.69 N; 053°32′.07 E
16°23′.02 N; 053°14′.82 E

(10) *The Southern South African waters* means the sea area enclosed by the following co-ordinates:

31°14′ S; 017°50′ E
31°30′ S; 017°12′ E
32°00′ S; 017°06′ E
32°32′ S; 016°52′ E
34°06′ S; 017°24′ E
36°58′ S; 020°54′ E
36°00′ S; 022°30′ E
35°14′ S; 022°54′ E
34°30′ S; 026°00′ E
33°48′ S; 027°25′ E
33°27′ S; 027°12′ E

(11) *The North Sea area* means the North Sea proper, including seas within the North Sea southwards of latitude 62° N and eastwards of longitude 4° W; the Skagerrak, the southern limit of which is determined east of the Skaw by latitude 57°44.8′ N; and the English Channel and its approaches eastwards of longitude 5° W.

(12) *The Wider Caribbean region* means the Gulf of Mexico and Caribbean Sea proper, including the bays and seas therein and that portion of the Atlantic Ocean within the boundary constituted by the 30° N parallel from Florida eastward to 77°30′ W meridian, thence a rhumb line to the intersection of 20° N parallel and 59° W meridian, thence a rhumb line to the intersection of 7°20′ N parallel and 50° W meridian, thence a rhumb line drawn southwesterly to the eastern boundary of French Guiana.

* * * * *

■ 61. In § 151.09, move the note located after paragraph (b)(3) to the end of the section and revise the note to read as follows:

§ 151.09 Applicability.

* * * * *

(e) * * *

Note to § 151.09(c)(3): The term ''internal waters'' is defined in § 2.24 of this chapter.

§ 151.13 [Amended]

■ 62. In § 151.13—

■ a. In paragraph (a), add the phrase '', the North West European waters, and Oman area of the Arabian Sea'' after the phrase ''Antarctic area''; and

■ b. Revise paragraph (h) to read as follows:

§ 151.13 Special areas for Annex I of MARPOL 73/78.

* * * * *

(h) In accordance with Regulation 38.6.1 of Annex I of MARPOL 73/78, the discharge restriction in § 151.13 for the Red Sea area, Gulfs area, Gulf of Aden area, the Oman area of the Arabian Sea, and the Southern South African waters will enter into effect when each party to MARPOL 73/78 whose coastline borders the special area has certified that reception facilities are available and the IMO has established an effective date for each special area. Notice of the effective dates for the discharge requirements in these special areas will be published in the **Federal Register** and reflected in this section.

§ 151.15 [Amended]

■ 63. In § 151.15(d)(2), remove the phone numbers ''202–372–2428), fax number 202–372–2920'' and add, in its place, the phone numbers ''202–267–2675), fax 202–267–1322''.

§ 151.26 [Amended]

■ 64. In § 151.26 (b)(3)(iii)(B), remove the phrase ''toll free number 800–424–8802'' and add, in its place, the phrase ''*toll free telephone number:* 800–424–8802, *direct telephone:* 202–267–2675, or *Fax:* 202–267–1322''.

§ 151.27 [Amended]

■ 65. In § 151.27(b), remove the office symbol ''G–MOR'' and add, in its place, the office symbol ''CG–5431''.

§ 151.28 [Amended]

■ 66. In § 151.28, remove the office symbol ''G–MOR'' wherever it appears and add, in its place, the office symbol ''CG–5431''.

§ 151.30 [Amended]

■ 67. In § 151.30—

■ a. In paragraph (a)(4), remove the number ''2.05–10'' and add, in its place, the number ''2.22''; and

■ b. Revise the note at the end of the section to read as follows:

§ 151.30 Applicability.

* * * * *

Note to § 151.30 (b)(4): The term ''internal waters'' is defined in § 2.24 of this chapter.

§ 151.39 [Amended]

■ 68. In § 151.39, remove the reference ''153.906,''.

§ 151.49 [Amended]

■ 69. In § 151.49(a), remove the word ''Isopropylcyclohexane''.

■ 70. In § 151.66, revise the note at the end of the section to read as follows:

§ 151.66 Operating requirements: Discharge of garbage in the navigable waters prohibited.

* * * * *

Note to § 151.66: The navigable waters are defined in § 2.36 of this chapter.

§ 151.79 [Amended]

■ 71. In § 151.79(c), remove the phrase ''toll free number 800–424–8802'' and add, in its place, the phrase ''*toll free telephone number*: 800–424–8802, *direct telephone:* 202–267–2675, or *Fax:* 202–267–1322''.

§ 151.1012 [Amended]

■ 72. In § 151.1012(a), remove the office symbol ''G-MOC'' and add, in its place, the office symbol ''CG–5431''.

§ 151.1021 [Amended]

■ 73. In § 151.1021(b)(1), remove the phrase ''Assistant Commandant for Marine Safety, Security and Environmental Protection, U.S. Coast Guard, Washington, DC 20593–0001;'' and add, in its place, the phrase ''Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001.''.

§ 151.2043 [Amended]

■ 74. In § 151.2043(a), remove the phrase ''Assistant Commandant for Marine Safety, Security and Environmental Protection (G–M)'' and add, in its place, the phrase ''Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5)'' and remove the office symbol ''G–MSO–4'' wherever it appears and add, in its place, the office symbol ''CG–5224''.

Appendix to Subpart D of Part 151 [Amended]

■ 75–76. In the final paragraph of the Appendix to Subpart D, remove the office symbol ''G–MSO'' and add, in its place, the office symbol ''CG–524''.

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

■ 77. The authority citation for part 153 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C.F 1321, 1903, 1908; 42 U.S.C. 9615; 46 U.S.C. 6101; E.O. 12580, 3 CFR, 1987 Comp., p. 193; E.O. 12777, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

§ 153.103 [Amended]

■ 78. In § 153.103(k), remove the reference ''2.05–25(b)'', and add, in its place, the reference ''2.36(b)''.

§ 153.203 [Amended]

■ 79. In § 153.203, remove the phrase ''2100 Second Street, SW., Washington, DC 20593, toll free telephone number 800–424–8802 (in Washington, DC metropolitan area, 202–372–2428; fax number 202–372–2920)'' and add, in its place, the phrase ''Room 2111, 2100 Second Street, SW., Washington, DC 20593–0001, *toll free telephone number*: 800–424–8802, *direct telephone:* 202–267–2675, *or Fax:* 202–267–1322''.

PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIAL IN BULK

■ 80. The authority citation for part 154 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6), and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; Department of Homeland Security Delegation No. 0170.1. Subpart F is also issued under 33 U.S.C. 2735.

§ 154.1016 [Amended]

■ 81. In § 154.1016(c), remove the reference ''2.05–25'' and add, in its place, the reference ''2.36''.

§ 154.1035 [Amended]

82. In § 154.1035(b)(1)(ii), add ''or direct telephone: 202–267–2675.'' at the end of the second sentence following Figure 1.

§ 154.1216 [Amended]

■ 83. In § 154.1216(b)(5), remove the reference ''part 2.05–25'' and add, in its place, the reference ''2.36''.

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

■ 84. Revise the authority citation for part 155 to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793. Sections 155.100 through 155.130, 155.350 through 155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) are also issued under 33 U.S.C. 1903(b). Sections 155.480, 155.490, 155.750(e), and 155.775 are also issued under 46 U.S.C. 3703. Section 155.490 also issued under section 4110(b) of Pub. L. 101–380. Sections 155.110–155.130, 155.350–155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) also issued under *33 U.S.C. 1903(b);* and §§ 155.1110–155.1150 also issued under *33 U.S.C. 2735.*

§ 155.140 [Amended]

■ 85. In § 155.140(a), remove the office symbol ''G–MOC'' and add, in its place, the office symbol ''CG–543''.

§ 155.1025 [Amended]

■ 86. In § 155.1025(e)(1), remove the number ''26'' and add, in its place, the number ''37'' and remove the phrase ''which is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161''.

§ 155.1030 [Amended]

■ 87. In § 155.1030—

■ a. In paragraphs (j) introductory text and (j)(3), remove the number ''26'' and add, in its place, the number ''37''; and

■ b. In paragraph (k) introductory text, remove the number ''26'' and add, in its place, the number ''37''.

§ 155.1035 [Amended]

■ 88. In § 155.1035(b)(5)(i), remove the office symbol ''COMDT G–MSO–4'' and add, in its place, the phrase '' the Office of Operating and Environmental Standards (CG–522).''.

§ 155.1050 [Amended]

■ 89. In § 155.1050(l)(1)(iii), remove the word ''Portable'' and add, in its place, the phrase ''Emergency lightering equipment, including portable''.

§ 155.1060 [Amended]

■ 90. In § 155.1060, in the note to paragraph (h), remove the Web site address *''http://dmses.dot.gov/docimages/pdf1a/198001_web.pdf''* and add, in its place, *''http://www.uscg.mil/hq/g-m/nmc/response/msprep.pdf''*.

§ 155.1065 [Amended]

■ 91. In § 155.1065—

■ a. In paragraph (a), remove the office symbol ''G–MOR'' and add, in its place, the phrase ''CG–5431'' and add the phrase '' or *vrp@uscg.mil''* after ''20593–001''; and

■ b. In paragraph (g), remove the phrase ''Regulation 26'' wherever it appears and add, in its place, the phrase ''Regulation 37''; and

■ c. In paragraph (h), remove the phrase ''Assistant Commandant for Marine Safety, Security and Environmental Protection'' and add, in its place, the phrase ''Prevention Policy Directorate for Marine Safety, Security, and Stewardship (CG–54)'' and remove the office symbol ''G–M'' and add, in its place, the office symbol ''CG–54''.

§ 155.1070 [Amended]

■ 92. In § 155.1070(f), remove the phrase ''Assistant Commandant for Marine Safety, Security and Environmental Protection (G–M)'' and add, in its place, ''Prevention Policy Directorate for Marine Safety, Security, and Stewardship (CG–54)'' and add the phrase '' or vrp@uscg.mil'' after ''20593–001''.

■ 93. In part 155, Appendix B 6.5, remove the office symbol ''G–MOR'' and add, in its place, the office symbol ''CG–5431'' and add the phrase '' or *vrp@uscg.mil''* after ''20593–001''.

PART 156—OIL AND HAZARDOUS MATERIAL TRANSFER OPERATIONS

■ 94. The authority citation for part 156 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3703a, 3715; E.O. 11735, 3 CFR 1971–1975 Comp., p. 793. Section 156.120 (bb) and (ee) are also issued under 46 U.S.C. 3703.

§ 156.111 [Amended]

■ 95. In § 156.111(a), remove the office symbol ''G–MOC'' and add, in its place, the office symbol ''CG–543''.

PART 157—RULES FOR THE PROTECTION OF THE MARINE ENVIRONMENT RELATING TO TANK VESSELS CARRYING OIL IN BULK

■ 96. The authority citation for part 157 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3703, 3703a (note); 49 CFR 1.46. Subparts G, H, and I are also issued under section 4115(b), Pub. L. 101–380, 104 Stat. 520; Pub. L. 104–55, 109 Stat. 546.

Part 157 [Amended]

■ 97. In part 157, remove the office symbol ''G–MOC'' wherever it appears and add, in its place, the office symbol ''CG–543''.

§ 157.02 [Amended]

■ 98. In § 157.02(a), remove the office symbol ''G–MSO'' and add, in its place, the office symbol ''CG–522''.

§ 157.06 [Amended]

■ 99. In § 157.06(c) and (d), remove the phrase ''Assistant Commandant for Marine Safety, Security and Environmental Protection'' and add, in its place, the phrase ''Assistant Commandant for Marine Safety, Security, and Stewardship (CG–5)''.

§ 157.08 [Amended]

■ 100. In § 157.08(n)(3)(ii)(B), remove the reference ''2.05–10'', and add, in its place, the reference ''2.20''.

§ 157.37 [Amended]

■ 101. In § 157.37(a)(7), remove the phrase ''Regulation 1(10)'' and add, in its place, the phrase ''Regulation 1.11''.

§ 157.100 [Amended]

■ 102. In § 157.100(b), remove the phrase ''400 7th Street, SW., Washington, DC 20590–0001'' and add, in its place, the phrase ''2100 2nd Street, SW., Jemal Building, JR10–0525, Washington, DC 20593–0001''.

§ 157.200 [Amended]

■ 103. In § 157.200(b), remove the phrase ''400 7th Street, SW., Washington, DC 20590–0001'' and add, in its place, the phrase ''2100 2nd Street, SW., Jemal Building, JR10–0525, Washington, DC 20593–0001''.

Appendix A to Part 157 [Amended]

■ 104. In Appendix A of part 157, in paragraph 1. *Source.*, remove the phrase ''Regulations 22, 23, and 24'' and add, in its place, the phrase ''Regulations 24, 25, and 26''.

Appendix B to Part 157 [Amended]

■ 105. In Appendix B of part 157, paragraph 1. *Source.,* remove the phrase ''Regulation 25'' and add, in its place, the phrase ''Regulation 28''.

Appendix C to Part 157 [Amended]

■ 106. In Appendix C of part 157, paragraph 1. *Source.,* remove the phrase ''Regulation 13E'' and add, in its place, the phrase ''Regulation 18, paragraphs 12–15''.

PART 158—RECEPTION FACILITIES FOR OIL, NOXIOUS LIQUID SUBSTANCES, AND GARBAGE

■ 107. The authority citation for part 158 continues to read as follows:

Authority: 33 U.S.C. 1903(b); 49 CFR 1.46.

§ 158.120 [Amended]

■ 108. In § 158.120, in paragraph (4) of the definition of ''Oceangoing ship'', remove the number ''2.05'', and add, in its place, the number ''2.22''.

PART 159—MARINE SANITATION DEVICES

■ 109. The authority citation for part 159 continues to read as follows:

Authority: 33 U.S.C. 1322(b)(1); 49 CFR 1.45(b). Subpart E also issued under authority of sec. 1(a)(4), Pub. L. 106–554, 114 Stat. 2763; Department of Homeland Security Delegation No. 0170.1.

Part 159 [Amended]

■ 110. In part 159, remove the phrase ''400 7th Street, SW., Washington, DC 20590'' wherever it appears and add, in its place, the phrase ''2100 2nd Street, SW., Jemal Building, JR10–0525, Washington, DC 20593–0001''.

§ 159.201 [Amended]

■ 111. In § 159.201, remove the office symbol ''G-MSE–3'' and add, in its place, the office symbol ''CG–5213''.

PART 161—VESSEL TRAFFIC MANAGEMENT

■ 112. Revise the authority citation for part 161 to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 70114, 70119; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

§ 161.12 [Amended]

■ 113. In § 161.12(c) Table 161.12(c)—

■ a. In the first Seattle Traffic-003669957 entry, remove the phrase ''Marrowstone Point and Lagoon Point'' and add, in its place, the phrase ''Nodule Point and Bush Point'' and

■ b. In the second Seattle Traffic-003669957 entry, remove the phrase ''Marrowstone Point and Lagoon Point'' and add, in its place, the phrase ''Nodule Point and Bush Point''.

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

■ 114. The authority citation for part 162 continues to read as follows:

Authority: 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.1, para. 2(70).

§ 162.15 [Amended]

■ 115. In § 162.15 paragraph (a)—

■ a. Remove ''166°50′ true from latitude 40°50′17.337'', longitude 73°43′03.877″'' and add, in its place, ''166°50′ true from latitude 40°50′17.337 N'', longitude 73°43′03.877 W''; and

■ b. Remove the reference ''§ 202.60'' and add, in its place, the reference ''§ 110.60''.

§ 162.75 [Amended]

■ 116. In § 162.75—

■ a. In paragraph (b)(3)(i), remove ''protions'' and add, in its place, ''portions'';

■ b. In paragraph (b) (4), remove the word ''over'' and add, in its place, the word ''other'';

■ c. In paragraph (b)(5)(vi), remove the numbers ''504–589–7101'' and add, in its place, the numbers ''504–846–5923''; and

■ d. In paragraph (b)(7), remove the '','' after the word ''currents''.

§ 162.90 [Amended]

■ 117. In § 162.90 paragraph (b)(4)(i), remove ''bridlse'' and add, in its place, ''bridle''.

■ 118. In § 162.200, revise paragraph (a) to read as follows:

§ 162.200 Marina del Rey, Calif.; restricted area.

(a) *The area.* That portion of the Pacific Ocean lying shoreward of the offshore breakwater and the most seaward 1,000 feet of the entrance channel between the north and south jetties, and basically outlined as follows:

Station	Latitude North	Longitude West
A	33°57′46.0″	118°27′39.5″
B	33°57′52.3″	118°27′43.6″
C	33°57′48.6″	118°27′48.8″
D	33°57′29.8″	118°27′34.7″
E	33°57′30.9″	118°27′29.1″
F	33°57′37.4″	118°27′33.8″
G	33°57′42.4″	118°27′23.0″
H	33°57′50.6″	118°27′28.3″

* * * * *

§ 162.220 [Amended]

■ 119. In § 162.220, in paragraph (a)(2), remove the last sentence ''Copies of said permits shall be furnished the enforcing agencies.'' and add, in its place, the sentence ''Copies of said permits must be furnished to the enforcing agencies.''.

■ 120. Revise § 162.235 paragraph (a)(6) to read as follows:

§ 162.235 Puget Sound Area, Wash.

(a) * * *

(6) *Tows.* No tow shall enter or pass through the canal with a towline more than 200 feet in length.

* * * * *

§ 162.240 [Amended]

■ 121–122. In § 162.240 paragraph (d), remove the phrase ''Commanding Officer, Sector Office, Juneau, Alaska'' and add, in its place, the phrase ''Commander, Sector Juneau.''

PART 164—NAVIGATION SAFETY REGULATIONS

■ 123. The authority citation for part 164 continues to read as follows:

Authority: 33 U.S.C. 1222(5), 1223, 1231; 46 U.S.C. 2103, 3703; Department of Homeland Security Delegation No. 0170.1 (75). Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.61 also issued under 46 U.S.C. 6101.

§ 164.03 [Amended]

■ 124. In § 164.03(a), remove the phrase ''Office of Vessel Traffic Management (G–MWV)'' and add, in its place, the phrase ''Navigation Systems Division (CG–5413),''.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

§ 165.100 [Amended]

■ 126. In § 165.100(a), remove the reference ''2.05–25(a)'' and add, in its place, the reference ''2.36''.

■ 127. Revise § 165.161 to read as follows:

§ 165.161 Safety zones: Coast Guard Captain of the Port New York annual fireworks displays.

(a) *Safety zones.* The following areas are designated safety zones:

(1) *Bar Beach fireworks, Hempstead Harbor, NY:*

(i) *Location.* All waters of Hempstead Harbor within a 300-yard radius of the fireworks barge in approximate position 40°49′54″ N 073°39′14″ W (NAD 1983), about 360 yards north of Bar Beach, Hempstead Harbor.

(ii) *Effective period.* Paragraph (a)(1)(i) of this section is in effect annually from 8 p.m. (e.s.t.) to 1 a.m. (e.s.t.) on the Friday before Memorial Day, and the Saturday after Labor Day. If the event is cancelled due to inclement weather, then paragraph (a)(1)(i) of this section is effective from 8 p.m. (e.s.t.) to 1 a.m. (e.s.t.) on the Saturday before Memorial Day and the Sunday after Labor Day.

(2) *Seaport Memorial Day fireworks, East River, NY:*

(i) *Location.* All waters of the East River south of the Brooklyn Bridge and north of a line drawn from the southwest corner of Pier 3, Brooklyn, to the northeast corner of Pier 6, Manhattan.

(ii) *Effective period.* Paragraph (a)(2)(i) of this section is in effect annually from 8 p.m. (e.s.t.) to 1 a.m. (e.s.t.) on Memorial Day. If the event is cancelled due to inclement weather, then paragraph (a)(2)(i) of this section is effective from 8 p.m. (e.s.t.) to 1 a.m. (e.s.t.) on the day following Memorial Day.

(3) *Red Bank, NJ, July 3rd fireworks, Navesink River:*

(i) *Location.* All waters of the Navesink River within a 360-yard radius of the fireworks barge in approximate position 40°21′20″ N 074°04′10″ W (NAD 1983), about 360 yards northwest of Red Bank, NJ.

(ii) *Effective period.* Paragraph (a)(3)(i) of this section is in effect annually from 8 p.m. (e.s.t.) to 1 a.m. (e.s.t.) on July 3rd. If the event is cancelled due to inclement weather, then paragraph (a)(3)(i) of this section is effective from 8 p.m. (e.s.t.) to 1 a.m. (e.s.t.) on July 4th.

(4) *Seaport Labor Day fireworks, East River, NY:*

(i) *Location.* All waters of the East River south of the Brooklyn Bridge and north of a line drawn from the southwest corner of Pier 3, Brooklyn, to the northeast corner of Pier 6, Manhattan.

(ii) *Effective period.* Paragraph (a)(4)(i) of this section is in effect annually from 8 p.m. (e.s.t.) to 1 a.m. (e.s.t.) on Labor Day. If the event is cancelled due to inclement weather, then paragraph (a)(4)(i) of this section is effective from 8 p.m. (e.s.t.) to 1 a.m. (e.s.t.) on the day following Labor Day.

(5) *Deepavali Festival fireworks, East River, NY:*

(i) *Location.* All waters of the East River south of the Brooklyn Bridge and north of a line drawn from the southwest corner of Pier 3, Brooklyn, to the northeast corner of Pier 6, Manhattan.

(ii) *Effective period.* Paragraph (a)(5)(i) of this section is in effect annually from 6 p.m. (e.s.t.) to 1 a.m. (e.s.t.) on the first Sunday in October. If the event is cancelled due to inclement weather, then paragraph (a)(5)(i) of this section is effective from 6 p.m. (e.s.t.) to 1 a.m. (e.s.t.) on the first Monday in October.

(6) *Seaport New Year's Eve fireworks, East River, NY:*

(i) *Location.* All waters of the East River south of the Brooklyn Bridge and north of a line drawn from the southwest corner of Pier 3, Brooklyn, to the northeast corner of Pier 6, Manhattan.

(ii) *Effective period.* Paragraph (a)(6)(i) of this section is in effect annually from 8 p.m. (e.s.t.) to 1 a.m. (e.s.t.) on New Year's Eve. If the event is cancelled due to inclement weather, then paragraph (a)(6)(i) of this section is effective from 8 p.m. (e.s.t.) to 1 a.m. (e.s.t.) on the day following New Year's Eve.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

§ 165.165 [Removed]

■ 128. Remove § 165.165.

§ 165.167 [Removed]

■ 129. Remove § 165.167.

§ 165.168 [Amended]

■ 130. In the heading of § 165.168, remove the word ''Activities'' and add, in its place, the phrase ''Captain of the Port''.

§ 165.169 [Amended]

■ 131. In § 165.169, remove the Web site ''*http://www.harborops.com*'' wherever it appears and add, in its place, ''*http://homeport.uscg.mil/newyork*''.

§ 165.754 [Amended]

■ 132. In § 165.754—

■ a. In paragraph (b)(3), remove the phrase ''The Captain of the Port and the Duty Officer at Sector, San Juan, Puerto Rico, can be contacted at telephone number 787–706–2444 or 787–289–2048.'' and add, in its place, the phrase ''The Captain of the Port and the Duty Officer at Sector San Juan, Puerto Rico, can be contacted at telephone number 787–289–2041.'' and

■ b. In paragraph (b)(4), remove the phrase ''The Sector San Juan'' and add, in its place, the phrase ''Coast Guard Sector San Juan''.

§ 165.755 [Amended]

■ 133. In § 165.755—

■ a. In paragraph (a)(2), remove the phrase ''liquefied natural gas'' and add, in its place, ''LNG'' and

■ b. In paragraph (c), remove the phrase ''The Coast Guard Sector San Juan'' and add, in its place, the phrase ''Coast Guard Sector San Juan''.

§ 165.757 [Amended]

■ 134. In § 165.757(b), remove the phrase ''The Sector San Juan'' and add, in its place, the phrase ''Coast Guard Sector San Juan''.

§ 165.758 [Amended]

■ 134a. In § 165.758—

■ a. In paragraph (b)(2), remove the phrase ''Captain of the Port at the Greater Antilles Section Operations Center'' and add, in its place, the phrase ''Captain of the Port at the Sector San Juan''; and

■ b. In paragraph (b)(3), remove the phrase ''Sector San Juan'' and add, in its place, the phrase ''Coast Guard Sector San Juan''.

§ 165.762 [Amended]

■ 135. In § 165.762—

■ a. In paragraph (b)(2), remove the phrase ''Captain of the Port at the Greater Antilles Section Operations Center'' and add, in its place, the phrase ''Captain of the Port at the Sector San Juan'' and

■ b. In paragraph (b)(3) remove the phrase ''The Sector San Juan'' and add, in its place, the phrase ''Coast Guard Sector San Juan''.

PART 166—SHIPPING SAFETY FAIRWAYS

■ 136. The authority citation for part 166 continues to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

§ 166.200 [Amended]

■ 137. In § 166.200—

■ a. In paragraph (b), remove the word ''provide'' and add, in its place, the word ''provided'' and

■ b. Revise paragraph (d) to read as follows:

§ 166.200 Shipping safety fairways and anchorage areas, Gulf of Mexico.

* * * * *

(d) *Designated Areas.* (1) *Brazos Santiago Pass Safety Fairway.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
26°03′27″	97°08′36″
26°02′57″	97°07′11″
26°02′06″	96°57′24″
25°58′54″	96°19′00″

and rhumb lines joining points at:

Latitude North	Longitude West
26°04′27″	97°08′36″
26°04′58″	97°07′07″

Latitude North	Longitude West
26°04′12″	96°59′30″
26°04′00″	96°57′24″
26°00′54″	96°19′00″

(2) *Brazos Santiago Pass Anchorage Areas.* The areas enclosed by rhumb lines joining points at:

Latitude North	Longitude West
26°02′57″	97°07′11″
26°02′06″	96°57′24″
25°58′54″	96°57′24″
25°58′54″	97°07′18″
26°02′57″	97°07′11″

and rhumb lines joining points at:

Latitude North	Longitude West
26°04′58″	97°07′07″
26°09′00″	97°07′00″
26°09′00″	96°59′30″
26°04′12″	96°59′30″
26°04′58″	97°07′07″

(3) *Port Mansfield Safety Fairway.* The area between a rhumb line joining points at:

Latitude North	Longitude West
26°33′39″	97°16′04″
26°33′43″	97°14′38″

and rhumb lines joining points at:

Latitude North	Longitude West
26°34′04″	97°16′05″
26°34′40″	97°15′47″
26°34′43″	97°14′40″

(4) *Aransas Pass Safety Fairway.* The area between rhumb lines joining points at:

Latitude North	Longitude West
27°49′21″	97°02′08″
27°48′11″	97°01′06″
27°46′26″	96°57′40″
27°45′14″	96°55′26″
27°44′09″	96°53′25″
27°42′47″	96°51′39″
27°39′24″	96°48′26″
27°21′59″	96°11′42″

and rhumb lines joining points at:

Latitude North	Longitude West
27°50′15″	97°01′32″
27°49′54″	96°59′56″
27°45′22″	96°51′19″
27°44′35″	96°48′31″
27°43′49″	96°45′47″
27°35′17″	96°27′46″
27°33′33″	96°24′06″
27°25′53″	96°07′56″

separated by areas enclosed by rhumb lines joining points at:

Latitude North	Longitude West
27°41′10″	96°47′23″
27°34′50″	96°34′01″
27°34′59″	96°31′56″
27°42′03″	96°46′51″
27°41′10″	96°47′23″

and rhumb lines joining points at:

Latitude North	Longitude West
27°33′06″	96°30′21″
27°23′33″	96°10′12″
27°24′19″	96°09′26″
27°33′15″	96°28′16″
27°33′06″	96°30′21″

(5) *Aransas Pass Anchorage Areas.* The areas enclosed by rhumb lines joining points at:

Latitude North	Longitude West
27°49′54″	96°59′56″
27°45′22″	96°51′19″
27°51′46″	96°40′12″
27°53′36″	96°56′30″
27°49′54″	96°59′56″

and rhumb lines joining points at:

Latitude North	Longitude West
27°45′14″	96°55′26″
27°43′00″	96°55′27″
27°44′09″	96°53′25″
27°45′14″	96°55′26″

(6) *Matagorda Entrance Safety Fairway.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
28°24′50″	96°19′38″
28°22′16″	96°17′40″
28°14′48″	96°09′42″
28°11′24″	96°06′06″
28°10′06″	96°04′42″
27°38′02″	95°49′39″

with rhumb lines joining points at:

Latitude North	Longitude West
28°25′31″	96°18′48″
28°23′38″	96°16′00″
28°16′12″	96°08′06″
28°12′30″	96°04′12″
28°11′13″	96°02′46″
27°38′12″	95°47′19″

(7) *Matagorda Entrance Anchorage Areas.* The areas enclosed by rhumb lines joining points at:

Latitude North	Longitude West
28°22′16″	96°17′40″
28°14′48″	96°09′42″
28°12′42″	96°12′12″
28°20′12″	96°20′12″
28°22′16″	96°17′40″

and rhumb lines joining points at:

Latitude North	Longitude West
28°23′38″	96°16′00″
28°25′36″	96°13′36″
28°18′12″	96°05′36″
28°16′12″	96°08′06″
28°23′38″	96°16′00″

(8) *Freeport Harbor Safety Fairway.* The area between rhumb lines joining points at:

Latitude North	Longitude West
28°55′19″	95°17′46″
28°52′58″	95°16′06″
28°44′52″	95°07′43″
28°43′32″	95°06′18″
28°04′48″	94°26′12″

and rhumb lines joining points at:

Latitude North	Longitude West
28°55′59″	95°16′55″
28°54′05″	95°14′10″
28°45′58″	95°5′48″
28°44′39″	95°04′22″
28°07′46″	94°26′12″

(9) *Freeport Harbor Anchorage Areas.* The areas enclosed by rhumb lines joining points at:

Latitude North	Longitude West
28°52′58″	95°16′06″
28°44′52″	95°07′43″
28°42′24″	95°12′00″
28°51′30″	95°18′42″
28°52′58″	95°16′06″

and rhumb lines joining points at:

Latitude North	Longitude West
28°54′05″	95°14′10″
28°56′54″	95°09′18″
28°47′42″	95°02′42″
28°45′58″	95°05′48″
28°54′05″	95°14′10″

(10) *Galveston Entrance Safety Fairways.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
27°44′03″	94°26′12″
28°04′48″	94°26′12″
28°07′46″	94°26′12″
29°06′24″	94°26′12″
29°07′42″	94°27′48″
29°18′10″	94°39′16″

Latitude North	Longitude West
29°19′39″	94°41′33″
29°20′44″	94°40′44″
29°19′23″	94°37′08″
29°10′30″	94°22′54″
29°10′17″	94°22′30″
29°09′06″	94°20′36″
28°17′17″	92°57′59″

and rhumb lines joining points at:

Latitude North	Longitude West
27°44′13″	94°23′57″
29°06′24″	94°23′55″
29°07′41″	94°22′23″
28°11′57″	92°53′25″

(11) *Galveston Entrance Anchorage Areas.* The areas enclosed by rhumb lines joining points at:

Latitude North	Longitude West
9°18′10″	94°39′16″
29°08′04″	94°28′12″
29°03′13″	94°36′48″
29°14′48″	94°45′12″
29°18′10″	94°39′16″

and rhumb lines joining points at:

Latitude North	Longitude West
29°19′23″	94°37′08″
29°22′18″	94°32′00″
29°14′23″	94°25′53″
29°13′24″	94°27′33″
29°19′23″	94°37′08″

(12) *Sabine Pass Safety Fairway.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
29°38′25″	93°50′02″
29°35′19″	93°49′10″
29°33′00″	93°46′26″
29°32′03″	93°46′44″
29°30′39″	93°43′41″
29°28′30″	93°41′09″
29°07′28″	93°41′08″
28°17′17″	92°57′59″
28°11′57″	92°53′25″
27°51′58″	92°36′20″

and rhumb lines joining points at:

Latitude North	Longitude West
29°38′48″	93°48′59″
29°37′32″	93°48′02″
29°36′28″	93°47′14″
29°32′52″	93°43′00″
29°31′13″	93°41′04″
29°29′20″	93°38′51″
29°08′08″	93°38′52″
28°39′02″	93°13′39″
28°36′15″	93°11′15″
27°52′09″	92°33′40″

(13) *Sabine Pass Anchorage Areas.* (i) *Sabine Pass Inshore Anchorage Area.* The area enclosed by rhumb lines joining points at:

Latitude North	Longitude West
29°37′32″	93°48′02″
29°37′32″	93°21′25″
29°32′52″	93°43′00″
29°36′28″	93°47′14″

(ii) *Sabine Bank Offshore (North) Anchorage Area.* The area enclosed by rhumb lines joining points at:

Latitude North	Longitude West
29°26′06″	93°43′00″
29°26′06″	93°41′08″
29°24′06″	93°41′08″
29°24′06″	93°43′00″

(iii) *Sabine Bank Offshore (South) Anchorage Area.* The area enclosed by rhumb lines joining points at:

Latitude North	Longitude West
29°16′55″	93°43′00″
29°16′55″	93°41′08″
29°14′29″	93°41′08″
29°14′29″	93°43′00″

(iv) *Sabine Bank Offshore (East) Anchorage Area.* The area enclosed by rhumb lines joining points at:

Latitude North	Longitude West
29°26′06″	93°38′52″
29°26′06″	93°37′00″
29°24′06″	93°37′00″
29°24′06″	93°38′52″

(14) *Coastwise Safety Fairways.* (i) *Brazos Santiago Pass to Aransas Pass.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
26°04′12″	96°59′30″
26°09′00″	96°59′30″
27°46′26″	96°57′40″

and rhumb lines joining points at:

Latitude North	Longitude West
25°58′54″	96°57′24″
26°02′06″	96°57′24″
26°04′00″	96°57′24″
27°40′36″	96°55′30″
27°43′00″	96°55′27″
27°45′14″	96°55′26″

(ii) *Aransas Pass to Calcasieu Pass.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
27°43′00″	96°55′27″
27°44′09″	96°53′25″
27°45′22″	96°51′19″
27°51′46″	96°40′12″
28°11′24″	96°06′06″
28°12′30″	96°04′12″
28°42′24″	95°12′00″
28°44′52″	95°07′43″
28°45′58″	95°05′48″
28°47′42″	95°02′42″
29°07′42″	94°27′48″
29°10′17″	94°22′30″
29°29′30″	93°58′24″
29°32′03″	93°46′44″
29°33′00″	93°46′26″
29°32′52″	93°43′00″
29°37′32″	93°21′25″

with rhumb lines joining points at:

Latitude North	Longitude West
27°40′36″	96°55′30″
27°42′47″	96°51′39″
27°44′35″	96°48′31″
28°10′06″	96°04′42″
28°11′13″	96°02′46″
28°43′32″	95°06′18″
28°44′39″	95°04′22″
29°06′24″	94°26′12″
29°06′24″	94°23′55″
29°07′41″	94°22′23″
29°09′06″	94°20′36″
29°27′40″	93°57′18″
29°30′39″	93°43′41″
29°31′13″	93°41′04″
29°33′56″	93°28′35″
29°32′57″	93°17′00″

(15) *Calcasieu Pass Safety Fairway.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
29°45′00″	93°20′58″
29°40′56″	93°20′18″
29°38′18″	93°20′42″
29°37′32″	93°21′25″
29°32′57″	93°17′00″
29°31′08″	93°14′38″
28°39′02″	93°13′39″

and rhumb lines joining points at:

Latitude North	Longitude West
29°45′05″	93°20′03″
29°41′12″	93°19′37″
29°37′30″	93°18′15″
29°31′16″	93°12′16″
28°36′15″	93°11′15″

(16) *Calcasieu Pass Anchorage Areas.* (i) *Calcasieu Pass North Anchorage Area.* The area enclosed by rhumb lines joining points at:

Latitude North	Longitude West
29°41′12″	93°19′37″
29°41′12″	93°12′28″

Latitude North	Longitude West
29°31′16″	93°12′16″
29°37′30″	93°18′15″

(ii) *Calcasieu Pass South Anchorage Area.* The area enclosed by rhumb lines joining points at:

Latitude North	Longitude West
28°59′30″	93°16′30″
28°59′30″	93°14′00″
28°56′00″	93°14′00″
28°56′00″	93°16′30″

(17) *Lower Mud Lake Safety Fairway.* The area enclosed by rhumb lines joining points at:

Latitude North	Longitude West
29°43′24″	93°00′18″
29°42′00″	93°00′18″

and rhumb lines joining points at:

Latitude North	Longitude West
29°43′33″	93°00′48″
29°42′00″	93°00′48″

(18) *Freshwater Bayou Safety Fairway.* The area between lines joining points at:

Latitude North	Longitude West
29°31′59″	92°18′45″
29°31′10″	92°18′54″
29°31′13″	92°19′14″
29°27′44″	92°19′53″

and a line joining points at:

Latitude North	Longitude West
29°27′34″	92°18′45″
29°31′03″	92°18′06″
29°31′06″	92°18′26″
29°31′55″	92°18′17″

(19) *Southwest Pass Safety Fairway.* The area between lines joining points at:

Latitude North	Longitude West
29°34′48″	92°03′12″
29°30′48″	92°07′00″
29°23′30″	92°08′24″

and lines joining points at:

Latitude North	Longitude West
29°34′24″	92°02′24″
29°30′24″	92°06′12″
29°23′24″	92°07′30″

(20) *Atchafalaya Pass Safety Fairway.* The area between a line joining points at:

Latitude North	Longitude West
29°22′36″	91°23′28″
29°14′42″	91°30′28″

and a line joining points at:

Latitude North	Longitude West
29°14′05″	91°29′34″
29°21′59″	91°22′34″

(21) *Bayou Grand Caillou Safety Fairway.* The area between a line joining points at:

Latitude North	Longitude West
29°10′59″	90°57′26″
29°05′24″	90°58′10″
29°01′08″	91°00′44″

and a line joining points at:

Latitude North	Longitude West
29°00′40″	90°59′43″
29°05′06″	90°57′03″
29°09′46″	90°56′27″

(22) *Cat Island Pass Safety Fairway.* The area between lines joining points at:

Latitude North	Longitude West
29°05′57″	90°34′32″
29°04′56″	90°35′09″
29°03′14″	90°35′10″
29°03′14″	90°35′17″
29°01′24″	90°34′55″

and lines joining points at:

Latitude North	Longitude West
29°06′00″	90°34′21″
29°05′31″	90°34′12″
29°03′13″	90°34′13″
29°03′13″	90°34′07″
29°01′34″	90°33′47″

(23) *Belle Pass Safety Fairway.* The area between a line joining points at:

Latitude North	Longitude West
29°05′06″	90°14′07″
29°02′50″	90°14′46″

and a line joining points at:

Latitude North	Longitude West
29°02′56″	90°13′48″
29°05′06″	90°13′10″

(24) *Barataria Pass Safety Fairway.* The area between a line joining points at:

Latitude North	Longitude West
29°16′00″	89°57′00″

Latitude North	Longitude West
29°14′54″	89°55′48″

and a line joining points at:

Latitude North	Longitude West
29°16′30″	89°56′06″
29°15′18″	89°55′00″

(25) *Grand Bayou Pass Safety Fairway.* The areas between a line joining points at:

Latitude North	Longitude West
29°17′36″	89°41′36″
29°16′48″	89°42′12″

and a line joining points at:

Latitude North	Longitude West
29°17′18″	89°40′36″
29°16′18″	89°41′18″

(26) *Empire to the Gulf Safety Fairway.* The area between a line joining points at:

Latitude North	Longitude West
29°15′22″	89°36′55″
29°13′52″	89°37′15″

and a line joining points at:

Latitude North	Longitude West
29°13′24″	89°36′11″
29°14′54″	89°35′51″

(27) *Gulf Safety Fairway. Aransas Pass Safety Fairway to Southwest Pass Safety Fairway.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
27°33′06″	96°30′21″
27°33′15″	96°28′16″
27°33′33″	96°24′06″
28°00′36″	90°08′18″

and rhumb lines joining points at:

Latitude North	Longitude West
27°34′50″	96°34′01″
27°34′59″	96°31′56″
27°35′17″	96°27′46″
27°38′02″	95°49′39″
27°38′12″	95°47′19″
27°44′03″	94°26′12″
27°44′13″	94°23′57″
27°51′58″	92°36′20″
27°52′09″	92°33′40″
28°02′32″	90°09′28″

(28) *Southwest Pass (Mississippi River) Safety Fairway. (i) Southwest*

Pass (Mississippi River) to Gulf Safety Fairway. The area enclosed by rhumb lines joining points at:

Latitude North	Longitude West
28°54′33″	89°26′07″
28°52′42″	89°27′06″
28°50′00″	89°27′06″
28°02′32″	90°09′28″

and rhumb lines joining points at:

Latitude North	Longitude West
28°54′18″	89°25′46″
28°53′30″	89°25′18″
28°53′30″	89°23′48″
28°50′40″	89°24′48″
28°48′48″	89°24′48″
28°47′24″	89°26′30″
28°00′36″	90°08′18″

(ii) *Southwest Pass (Mississippi River) to Sea Safety Fairway.* The area enclosed by rhumb lines joining points at:

Latitude North	Longitude West
28°54′33″	89°26′07″
28°52′42″	89°27′06″
28°50′00″	89°27′06″
28°47′24″	89°26′30″
28°36′28″	89°18′45″

and rhumb lines joining points at:

Latitude North	Longitude West
28°54′18″	89°25′46″
28°53′30″	89°25′18″
28°53′30″	89°23′48″
28°50′40″	89°24′48″
28°48′48″	89°24′48″
28°45′06″	89°22′12″
28°43′27″	89°21′01″
28°37′54″	89°17′06″

(iii) *Southwest Pass (Mississippi River) to South Pass (Mississippi River) Safety Fairway.* The areas between rhumb line joining points at:

Latitude North	Longitude West
28°45′06″	89°22′12″
28°55′56″	89°03′09″

and rhumb lines joining points at:

Latitude North	Longitude West
28°43′27″	89°21′01″
28°54′55″	89°00′44″

(29) *Southwest Pass (Mississippi River) Anchorage.* The area enclosed by rhumb lines joining points at:

Latitude North	Longitude West
28°53′30″	89°23′48″
28°53′30″	89°21′48″
28°55′06″	89°21′48″
28°55′06″	89°19′18″
28°52′41″	89°17′30″
28°50′40″	89°21′14″
28°50′40″	89°24′48″

(30) *South Pass (Mississippi River) Safety Fairway. (i) South Pass to Sea Safety Fairway.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
28°59′18″	89°08′30″
28°58′42″	89°07′30″
28°58′09″	89°08′30″
28°55′56″	89°03′09″
28°54′55″	89°00′44″
28°54′15″	88°59′00″

and rhumb lines joining points at:

Latitude North	Longitude West
East jetty light:	
28°59′24″	89°08′12″
29°00′09″	89°07′24″
29°00′00″	89°07′00″
28°57′56″	89°02′18″
28°57′18″	89°00′48″
28°56′16″	88°58′29″
28°55′42″	88°57′06″

(ii) *South Pass (Mississippi River) to Mississippi River-Gulf Outlet Channel Safety Fairway.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
28°57′18″	89°00′48″
29°04′18″	88°48′31″
29°24′35″	88°57′17″

and rhumb lines joining points at:

Latitude North	Longitude West
28°56′16″	88°58′29″
29°03′30″	88°45′42″
29°23′06″	88°54′11″
29°26′28″	88°55′39″

(31) *South Pass (Mississippi River) Anchorage.* The areas within rhumb lines joining points at:

Latitude North	Longitude West
29°00′00″	89°07′00″
29°03′36″	89°02′18″
28°57′56″	89°02′18″

(32) *Mississippi River-Gulf Outlet Safety Fairway.* (i) The areas between rhumb lines joining points at:

Latitude North	Longitude West
29°42′10″	89°25′49″
29°29′33″	89°07′47″
29°27′14″	89°03′20″
29°24′38″	89°00′00″
29°24′35″	88°57′17″

and rhumb lines joining points at:

Latitude North	Longitude West
29°42′29″	89°25′31″
29°29′53″	89°07′31″
29°27′01″	89°01′54″
29°26′38″	88°58′43″

(ii) *Mississippi River-Gulf Outlet Channel to Mobile Ship Channel Safety Fairway.* The areas within rhumb lines joining points at:

Latitude North	Longitude West
29°26′38″	88°58′43″
29°29′57″	88°54′48″
29°38′59″	88°44′04″
29°56′43″	88°20′50″
29°58′03″	88°19′05″
30°05′29″	88°09′19″

and rhumb lines joining points at:

Latitude North	Longitude West
29°26′28″	88°55′39″
29°27′54″	88°53′54″
29°37′32″	88°42′28″
29°55′14″	88°19′15″
29°56′34″	88°17′30″
30°03′50″	88°08′01″
30°05′15″	88°06′05″

(33) *Mississippi River-Gulf Outlet Anchorage.* (i) The areas within rhumb lines joining points at:

Latitude North	Longitude West
29°27′01″	89°01′54″
29°32′12″	88°55′42″
29°29′57″	88°54′48″
29°26′38″	88°58′43″

(ii) The areas within rhumb lines joining points at:

Latitude North	Longitude West
29°26′28″	88°55′39″
29°27′54″	88°53′54″
29°24′33″	88°52′27″
29°23′06″	88°54′11″

(34) *Gulfport Safety Fairway.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
30°20′54″	89°05′36″
30°13′56″	88°59′42″
30°11′09″	88°59′56″
30°06′45″	88°56′24″

Latitude North	Longitude West
30°05′42″	88°56′24″

and rhumb lines joining points at:

Latitude North	Longitude West
30°21′27″	89°04′38″
30°14′11″	88°58′29″
30°11′29″	88°58′45″
30°07′42″	88°55′37″

(35) *Biloxi Safety Fairway.* The area between lines joining points at:

Latitude North	Longitude West
30°24′06″	88°50′57″
30°23′15″	88°50′22″
30°21′11″	88°47′36″
30°20′13″	88°47′04″
30°15′06″	88°47′06″
30°13′09″	88°47′46″
30°12′23″	88°49′02″

and lines joining points at:

Latitude North	Longitude West
30°24′27″	88°50′31″
30°23′57″	88°49′31″
30°21′42″	88°46′36″
30°20′25″	88°45′55″
30°14′57″	88°45′57″
30°12′56″	88°46′39″
30°12′00″	88°45′25″

(36) *Ship Island Pass to Horn Island Pass Safety Fairway.* The areas between rhumb line joining points at:

Latitude North	Longitude West
30°05′42″	88°56′24″
30°06′38″	88°31′26″

and rhumb line joining points at:

Latitude North	Longitude West
30°07′42″	88°55′37″
30°08′27″	88°36′57″

(37) *Pascagoula Safety Fairway.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
30°20′46″	88°34′39″
30°20′21″	88°34′39″
30°17′00″	88°31′21″
30°12′59″	88°30′53″
30°11′50″	88°32′05″
30°08′27″	88°36′57″
30°06′38″	88°31′26″
29°56′43″	88°20′50″
29°55′14″	88°19′15″
29°20′00″	87°41′47″

and rhumb line joining points at:

Latitude North	Longitude West
30°20′30″	88°33′18″
30°18′39″	88°31′25″

and rhumb line joining points at:

Latitude North	Longitude West
30°20′26″	188°31′25″
30°18′39″	188°31′25″

and rhumb lines joining points at:

Latitude North	Longitude West
30°19′21″	88°30′12″
30°17′25″	88°30′12″
30°12′46″	88°29′42″
30°11′21″	88°31′00″
30°09′33″	88°29′48″
30°07′30″	88°29′09″
29°58′03″	88°19′05″
29°56′34″	88°17′30″
29°20′48″	87°39′31″

(38) *Horn Island Pass to Mobile Ship Channel Safety Fairway.* The areas between rhumb line joining points at:

Latitude North	Longitude West
30°09′33″	88°29′48″
30°07′15″	88°06′54″

and rhumb line joining points at:

Latitude North	Longitude West
30°07′30″	88°29′09″
30°05′29″	88°09′19″

(39) *Mobile Safety Fairway.* (i) *Mobile Ship Channel Safety Fairway.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
30°38′46″	88°03′24″
30°38′14″	88°02′42″
30°31′59″	88°02′00″
30°31′59″	88°04′59″

and rhumb lines joining points at:

Latitude North	Longitude West
30°31′00″	88°05′30″
30°31′00″	88°01′54″
30°26′55″	88°01′26″
30°16′35″	88°02′45″
30°14′09″	88°03′24″
30°10′36″	88°03′53″
30°08′10″	88°04′40″
30°07′15″	88°06′54″

and rhumb lines joining points at:

Latitude North	Longitude West
30°39′55″	88°01′15″
30°37′06″	88°01′23″
30°26′11″	88°00′11″

Latitude North	Longitude West
30°16′18″	88°01′35″
30°13′52″	88°01′12″
30°13′14″	88°01′12″
30°10′36″	88°01′35″
30°08′04″	88°00′36″

(ii) *Mobile Ship Channel to Sea Safety Fairway.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
30°05′15″	88°01′13″
30°03′50″	88°00′00″
29°25′46″	87°29′13″

and rhumb line joining points at:

Latitude North	Longitude West
30°06′17″	87°59′15″
29°27′00″	87°27′18″

(iii) *Mobile to Pensacola Safety Fairway.* The areas between rhumb line joining points at:

Latitude North	Longitude West
30°08′04″	88°00′36″
30°14′20″	87°19′05″

and rhumb line joining points at:

Latitude North	Longitude West
30°06′17″	87°59′15″
30°12′31″	87°18′00″

(40) *Mobile Anchorage.* The areas within rhumb lines joining points at:

Latitude North	Longitude West
30°05′15″	88°06′05″
30°05′15″	88°01′13″
30°03′50″	88°00′00″
30°03′50″	88°08′01″

(41) *Pensacola Safety Fairway.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
30°23′41″	87°14′34″
30°23′06″	87°13′53″
30°22′54″	87°13′53″
30°20′47″	87°15′45″

and rhumb lines joining points at:

Latitude North	Longitude West
30°18′43″	87°19′24″
30°15′57″	87°18′19″
30°14′20″	87°19′05″
30°12′31″	87°18′00″
30°10′03″	87°18′00″
29°37′00″	87°18′00″

and rhumb lines joining points at:

Latitude North	Longitude West
30°26′27″	87°08′28″
30°25′35″	87°10′30″

and rhumb lines joining points at:

Latitude North	Longitude West
30°24′36″	87°07′07″
30°22′57″	87°09′38″
30°22′36″	87°11′50″
30°19′21″	87°14′46″
30°19′52″	87°17′31″

and rhumb lines joining points at:

Latitude North	Longitude West
30°19′15″	87°17′37″
30°16′28″	87°16′32″
30°14′32″	87°16′06″
30°12′33″	87°15′43″
29°42′30″	87°15′43″

(42) *Pensacola Anchorage.* (i) The area within rhumb lines joining points at:

Latitude North	Longitude West
30°11′49″	87°22′41″
30°12′31″	87°18′00″
30°10′03″	87°18′00″
30°09′21″	87°22′41″

(ii) The area within rhumb lines joining points at:

Latitude North	Longitude West
30°16′28″	87°16′32″
30°17′14″	87°11′52″
30°15′14″	87°11′52″
30°14′32″	87°16′06″

(43) *Pensacola to Panama City Safety Fairway.* The area between rhumb lines joining points at:

Latitude North	Longitude West
30°14′32″	87°16′06″
30°15′14″	87°11′52″
30°18′45″	86°50′00″
30°18′00″	86°20′00″
29°51′30″	85°47′33″

and rhumb lines joining points at:

Latitude West	Longitude West
30°12′33″	87°15′43″
30°16′44″	86°49′49″
30°16′01″	86°20′57″
29°48′45″	85°47′33″

(44) *Panama City Safety Fairways.* The areas between rhumb lines joining points at:

Latitude North	Longitude West
30°09′24″	85°40′12″
30°09′21″	85°41′40″
30°07′36″	85°44′20″
30°06′32″	85°47′33″
29°51′30″	85°47′33″
29°48′45″	85°47′33″
29°03′30″	85°47′33″

and rhumb lines joining points at:

Latitude North	Longitude West
30°08′34″	85°40′16″
30°07′55″	85°41′50″
30°06′49″	85°43′28″
30°04′40″	85°45′15″
29°55′27″	85°45′15″
29°51′20″	85°45′15″
29°49′19″	85°45′15″
29°00′00″	85°45′15″

(45) *Panama City Anchorage.* The area within rhumb lines joining points at:

Latitude North	Longitude West
29°55′27″	85°45′15″
29°55′27″	85°42′25″
29°51′39″	85°42′25″
29°51′20″	85°45′15″

(46) *Port St. Joe Fairway to Panama City Fairway.* The area between rhumb lines joining points at:

Latitude North	Longitude West
29°49′54″	85°19′24″
29°50′59″	85°22′25″
29°53′32″	85°22′25″
29°54′12″	85°24′00″
29°54′12″	85°25′55″
29°52′58″	85°28′43″
29°53′00″	85°29′48″
29°51′39″	85°42′25″
29°51′20″	85°45′15″

and rhumb lines joining points at:

Latitude North	Longitude West
29°48′22″	85°18′12″
29°47′21″	85°21′00″
29°50′42″	85°23′31″
29°52′51″	85°23′36″
29°53′10″	85°24′18″
29°53′10″	85°25′33″
29°51′57″	85°28′19″
29°51′04″	85°29′00″
29°50′40″	85°32′39″
29°49′19″	85°45′15″

(47) *Port St. Joe Anchorage.* The area within rhumb lines joining points at:

Latitude North	Longitude West
29°50′40″	85°32′39″
29°51′04″	85°29′00″
29°49′18″	85°30′18″

(48) *Tampa Safety Fairways.* The area between rhumb lines joining points at:

Latitude North	Longitude West
27°37′48″	82°45′54″
27°36′48″	82°55′54″
27°36′48″	83°00′00″
27°36′48″	84°39′10″

and rhumb lines joining points at:

Latitude North	Longitude West
27°35′54″	82°45′42″
27°34′48″	82°55′54″
27°34′48″	83°00′00″
27°34′48″	84°39′00″

(49) *Tampa Anchorages.* (i) *Eastern Tampa Fairway Anchorage.* The area enclosed by rhumb lines [North American Datum of 1927 (NAD–27)] joining points at:

Latitude North	Longitude West
27°36′48″	83°00′00″
27°39′00″	83°00′00″
27°39′00″	82°55′54″
27°36′48″	82°55′54″

(ii) *Western Tampa Fairway Anchorage.* The area enclosed by rhumb lines [North American Datum of 1927 (NAD–27)] joining points at:

Latitude North	Longitude West
27°36′48″	83°05′06″
27°39′00″	83°05′06″
27°39′00″	83°01′00″
27°36′48″	83°01′00″

(50) *Charlotte Safety Fairways.* The area between rhumb lines joining points at:

Latitude North	Longitude West
26°41′18″	82°19′00″
25°30′00″	84°22′00″

and rhumb lines joining points at:

Latitude North	Longitude West
26°40′19″	82°18′28″
26°38′30″	82°19′54″
26°39′00″	82°19′00″
25°28′00″	84°21′30″

(51) *Charlotte Anchorage.* The area within rhumb lines joining points at:

Latitude North	Longitude West
26°39′00″	82°19′00″
26°38′12″	82°18′24″
26°37′36″	82°19′18″
26°38′30″	82°19′54″

(52) *Louisiana Offshore Oil Port (LOOP) Shipping Safety Fairway to Safety Zone.* (i) North of Gulf Safety Fairway. The two mile wide area enclosed by rhumb lines joining points at:

Latitude North	Longitude West
28°48′36″	89°55′00″
28°48′14″	89°54′17″
28°45′47″	89°54′19″
28°36′06″	89°55′44″
28°18′30″	89°55′15″
28°20′58″	89°53′03″
28°36′09″	89°53′28″
28°49′07″	89°51′30″
28°50′20″	89°53′51″

(ii) *South of Gulf Safety Fairway.* The two-mile-wide area enclosed by rhumb lines joining points at:

Latitude North	Longitude West
28°15′20″	89°55′10″
27°46′29″	89°54′23″
27°46′32″	89°52′08″
28°17′48″	89°52′58″

(53) *Heald Bank Cutoff Safety Fairway.* The area enclosed by rhumb lines [North American Datum of 1927 (NAD–27)], joining points at:

Latitude North	Longitude West
28°57′15″	94°23′55″
28°51′30″	93°56′30″
28°48′30″	93°51′45″
28°55′15″	94°23′55″

PART 173—VESSEL NUMBER AND CASUALTY AND ACCIDENT REPORTING

■ 138. The authority citation for part 173 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2110, 6101, 12301, 12302; OMB Circular A–25; Department of Homeland Security Delegation No. 0170.

■ 139. In § 173.3, revise paragraph (g) to read as follows:

§ 173.3 Definitions.

* * * * *

(g) *State* means a State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the District of Columbia.

* * * * *

PART 174—STATE NUMBERING AND CASUALTY AND ACCIDENT REPORTING

■ 140. The authority citation for part 174 continues to read as follows:

Authority: 46 U.S.C. 6101 and 12302; Department of Homeland Security Delegation No. 0170.1 (92).

§ 174.7 [Amended]

■ 141. In § 174.7, remove the phrase ''Office of Boating Safety'' and add, in its place, the phrase ''Office of Auxiliary and Boating Safety (CG–542)''.

§ 174.121 [Amended]

■ 142. In § 174.121, remove the phrase ''Commandant (G–OPB)'' and add, in its place, the phrase ''Commandant (CG–5422)''.

§ 174.125 [Amended]

■ 143. In § 174.125, remove the phrase ''Office of Boating Safety'' and add, in its place, the phrase ''Office of Auxiliary and Boating Safety (CG–542)''.

PART 179—DEFECT NOTIFICATION

■ 144. The authority citation for part 179 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 4302, 4307, 4310, and 4311; Pub. L 103–206, 107 Stat. 2439; 49 CFR 1.46.

§ 179.19 [Amended]

■ 145. In § 179.19 paragraph (a), remove the office symbol ''(G–OPB–3)'' and add, in its place, the office symbol ''Commandant (CG–54223)''.

PART 181—MANUFACTURER REQUIREMENTS

■ 146. The authority citation for part 181 continues to read as follows:

Authority: 46 U.S.C. 4302

§ 181.31 [Amended]

■ 147. In § 181.31—

■ a. In paragraph (a), remove the word ''Division'' and add, in its place, the words ''Branch (CG–54223)'' and

■ b. In paragraph (b), remove the word ''Division'' and add, in its place, the words ''Branch (CG–54223).''

§ 181.33 [Amended]

■ 148. In § 181.33 paragraph (b), remove the word ''Division'' and add, in its place, the words ''Branch (CG–54223).''

PART 183—BOATS AND ASSOCIATED EQUIPMENT

■ 149. The authority citation for part 183 continues to read as follows:

Authority: 46 U.S.C. 4302; Pub. L 103–206, 107 Stat. 2439; 49 CFR 1.46.

§ 183.5 [Amended]

■ 150. In § 183.5(a), remove the word ''Division'' and add, in its place, the words ''Branch (CG–54223).''

PART 187—VESSEL IDENTIFICATION SYSTEM

■ 151. The authority citation for part 187 continues to read as follows:

Authority: 46 U.S.C. 2103; 49 CFR 1.46.

■ 152. In § 187.7, revise the definition of ''Approved Numbering System'' to read as follows:

§ 187.7 What are the definitions of terms used in this part?

* * * * *

Approved Numbering System means a numbering system approved by the Secretary of the Department of Homeland Security under 46 U.S.C. Chapter 123.

* * * * *

§ 187.11 [Amended]

■ 153. In § 187.11 paragraph (a), remove the phrase ''Commandant (G-OPB)'' and add, in its place, the phrase ''Commandant (CG–5422)''.

§ 187.13 [Amended]

■ 154. In § 187.13 paragraph (a), remove the phrase ''Commandant (G-OPB)'' and add, in its place, the phrase ''Commandant (CG–5422)''.

Dated: May 23, 2008.

Stefan G. Venckus,

Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. E8–12643 Filed 6–18–08; 8:45 am]

BILLING CODE 4910–15–P

Federal Register

Thursday,
June 19, 2008

Part III

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 6, 14, 18 et al.
Safety Standards Regarding the Recommendations of the Technical Study Panel on the Utilization of Belt Air and the Composition and Fire Retardant Properties of Belt Materials in Underground Coal Mining; Conveyor Belt Combustion Toxicity and Smoke Density; Proposed Rules

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 6, 14, 18, 48, and 75

RIN 1219–AB59

Safety Standards Regarding the Recommendations of the Technical Study Panel on the Utilization of Belt Air and the Composition and Fire Retardant Properties of Belt Materials in Underground Coal Mining

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed Rule, notice of public hearings.

SUMMARY: This proposal addresses the recommendations of the Technical Study Panel (Panel) on the Utilization of Belt Air and the Composition and Fire Retardant Properties of Belt Materials in Underground Coal Mining. Section 11 of the Mine Improvement and New Emergency Response (MINER) Act of 2006 required that this Panel be established. MSHA proposes new standards for: Conveyor belt flammability; qualifying Atmospheric Monitoring System operators; levels of methane and respirable dust in belt entries; airlocks between air courses; minimum and maximum air velocities; approval for the use of air from the belt entry to ventilate working sections; monitoring and remotely closing point-feed regulators; smoke sensors; standardized tactile signals on lifelines; replacing point-type heat sensors with carbon monoxide sensors; and belt conveyor and belt entry maintenance. Consistent with the MINER Act, the proposal includes MSHA's response to the Panel's report.

DATES: All comments must be received by midnight eastern standard time on September 8, 2008. MSHA will hold four public hearings on August 19, August 21, August 26, and August 28, 2008. Details about the public hearings are in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Comments must be clearly identified with ''RIN 1219–AB59'' and may be sent to MSHA by any of the following methods:

(1) *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

(2) *Electronic mail: zzMSHA-Comments@dol.gov*. Include ''RIN 1219–AB59'' in the subject line of the message.

(3) *Facsimile:* (202) 693–9441. Include ''RIN 1219–AB59'' in the subject.

(4) *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209–3939.

(5) *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209–3939. Sign in at the receptionist's desk on the 21st floor.

Comments can be accessed electronically at *http://www.msha.gov* under the ''Rules and Regs'' link. MSHA will post all comments on the Internet without change, including any personal information provided. Comments may also be reviewed at the Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia. Sign in at the receptionist's desk on the 21st floor.

MSHA maintains a listserve that enables subscribers to receive e-mail notification when rulemaking documents are published in the **Federal Register**. To subscribe to the listserve, go to *http://www.msha.gov/subscriptions/subscribe.aspx*.

Information Collection Requirements: Comments concerning the information collection requirements must be clearly identified by ''RIN 1219–AB59'' as comments on the information collection requirements and sent to both the Office of Management and Budget (OMB) and MSHA. Comments to OMB may be sent by mail addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for MSHA. Comments to MSHA may be transmitted either electronically to *zzMSHA-Comments@dol.gov*, by facsimile to (202) 693–9441, or by regular mail, hand delivery, or courier to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209–3939.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209–3939, *silvey.patricia@dol.gov* (e-mail), (202) 693–9440 (voice), or (202) 693–9441 (telefax).

SUPPLEMENTARY INFORMATION: The outline of this proposed rule is as follows:

I. Public Hearings
II. Introduction
III. Section-by-Section Analysis
A. Flame-Resistant Conveyor Belt
1. General
2. Discussion of Proposed Rule
B. Fire Prevention and Detection and Approval of the Use of Air from the Belt Entry to Ventilate Working Sections
1. General
2. Discussion of Proposed Rule
IV. Executive Order 12866
A. Population-at-Risk
B. Benefits
C. Compliance Costs
V. Feasibility
A. Technological Feasibility
B. Economic Feasibility
VI. Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act (SBREFA)
A. Definition of a Small Mine
B. Factual Basis for Certification
VII. Paperwork Reduction Act of 1995
A. Summary
B. Procedural Details
VIII. Other Regulatory Considerations
A. The Unfunded Mandates Reform Act of 1995
B. Treasury and General Government Appropriations Act of 1999: Assessment of Federal Regulations and Policies on Families
C. Executive Order 12630: Government Actions and Interference with Constitutionally Protected Property Rights
D. Executive Order 12988: Civil Justice Reform
E. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
I. Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking
IX. Proposed Rule

I. Public Hearings

MSHA will hold four public hearings on the proposed rule. These public hearings will begin at 9 a.m. and end after the last speaker speaks, and in any event not later than 5 p.m., on the following dates at the locations indicated:

Date	Location	Contact information
August 19, 2008	Salt Lake City, UT 84101.	
August 21, 2008	Hilton Suites Lexington Green, 245 Lexington Green Circle, Lexington, KY 40503.	(859) 271–4000

Date	Location	Contact information
August 26, 2008	Embassy Suites Charleston, 300 Court St., Charleston, WV 25301	(304) 347–8700
August 28, 2008	Sheraton Birmingham, 2101 Richard Arrington Jr. Blvd., Birmingham, AL 35203.	(205) 324–5000

The hearings will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations. Requests to speak at a hearing should be made at least 5 days prior to the hearing date. Requests to speak may be made by telephone (202–693–9440), facsimile (202–693–9441), or mail (MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939).

Any unallocated time at the end of each hearing will be made available to persons making same-day requests to speak. Speakers will speak in the order that they sign in at the hearing. At the discretion of the presiding official, the time allocated to each speaker for their presentation may be limited. Speakers and other attendees may also present information to the MSHA panel for inclusion in the rulemaking record.

The hearings will be conducted in an informal manner. The hearing panel may ask questions of speakers. Formal rules of evidence or cross examination will not apply. The presiding official may exercise discretion to assure the orderly progress of the hearing and meeting and may exclude irrelevant or unduly repetitious material and questions. A verbatim transcript of the proceedings will be made a part of the rulemaking record. Copies of the transcript will be available to the public. The transcript will also be available on MSHA's Home Page at *http://www.msha.gov,* under Statutory and Regulatory Information.

MSHA will accept post-hearing written comments and other appropriate data for the record from any interested party, including those not presenting oral statements. Written comments will be included in the rulemaking record until the close of the comment period. MSHA will make transcripts of the hearings, post them on MSHA's Web site *http://www.msha.gov,* and include them in the rulemaking record.

II. Introduction

Section 11 of the MINER Act established the Technical Study Panel to provide an independent scientific and engineering review, and issue a report with recommendations regarding the use of air from the belt entry to ventilate working sections and the composition and fire retardant properties of belt materials in underground coal mining. The Secretary of Labor chartered the Panel on December 22, 2006 (71 FR 77069).

The Panel held five public meetings in Washington, DC; Pittsburgh, Pennsylvania; Salt Lake City, Utah; Birmingham, Alabama; and Reston, Virginia. The Panel solicited and reviewed comments from the mining community at the public meetings, and reviewed extensive material provided primarily by MSHA and the National Institute for Occupational Safety and Health (NIOSH). In addition, technical experts in mine ventilation, conveyor belt composition, and other pertinent areas submitted detailed information and made presentations to the Panel. Transcripts of the meetings, including technical and scientific material, are in the official record, and on MSHA's Web site.

In conjunction with the public meetings in Utah and Alabama, Panel members visited underground coal mines to observe conditions at mines that use air from the belt entry to ventilate working sections.

The Panel deliberated over a nine-month period and conducted its final public meeting on September 17–19, 2007, to discuss recommendations for its report. The Panel passed 20 recommendations as described below by a unanimous vote:

- Recommendation number 1—Conveyor Belt Flammability Testing and Approval;
- Recommendation number 2—Other Belt Tests;
- Recommendation number 3—Improved Fire Resistance Standards for all Underground Coal Mines;
- Recommendation number 4—Coordinating Belt Testing with Other Countries;
- Recommendation number 5—Belt entry and conveyor belt maintenance;
- Recommendation number 6—Special requirements for the use of belt air;
- Recommendation number 7—Belt air approval recommendation;
- Recommendation number 8—Discontinuing point-type heat sensors;
- Recommendation number 9—Smoke sensors;
- Recommendation number 10—Use of diesel-discriminating sensors;
- Recommendation number 11—Review of AMS records;
- Recommendation number 12—AMS operator training certification;
- Recommendation number 13—Minimum and maximum air velocities;
- Recommendation number 14—Escapeways and leakage;
- Recommendation number 15—Lifelines;
- Recommendation number 16—Point-feeding;
- Recommendation number 17—Respirable dust;
- Recommendation number 18—Mine methane;
- Recommendation number 19—Inspections; and
- Recommendation number 20—Research.

The Panel issued its report on December 20, 2007. A copy of this report is available on MSHA's Web site at *http://www.msha.gov.*

The Consolidated Appropriations Act of 2008 (Pub. L. 110–161, December 26, 2007) requires the Secretary to propose regulations consistent with the recommendations of the Technical Study Panel, to require that:

> [i]n any coal mine * * * belt haulage entries not be used to ventilate active working places without prior approval from the Assistant Secretary. Further, a mine ventilation plan incorporating the use of air coursed through belt haulage entries to ventilate active working places shall not be approved until the Assistant Secretary has reviewed the elements of the plan related to the use of belt air and has determined that the plan at all times affords at least the same measure of protection where belt haulage entries are not used to ventilate working places.

Based on the Panel's recommendations, MSHA is proposing new and revised safety standards for underground coal mines concerning 15 of the 20 recommendations which require rulemaking. The remaining recommendations would not require rulemaking.

This proposal is organized in two parts under Part III below. Part III (A) includes proposed requirements for improved flame-resistant conveyor belts. Part III (B) includes proposed requirements for fire prevention and detection and approval of the use of air from the belt entry to ventilate working sections.

MSHA is also publishing a Request for Information in the **Federal Register** for public comment on criteria for

testing the toxicity and density of smoke produced from burning conveyor belt or similar materials.

III. Section-By-Section Analysis

A. Flame-Resistant Conveyor Belt

1. General

(a) This proposal addresses Panel Recommendation No. 1—Conveyor Belt Flammability Testing and Approval, and Recommendation No. 3—Improved Fire Resistance Standards for All Underground Coal Mines. To address Panel Recommendation No. 2—Other belt tests, MSHA is evaluating the drum friction test to determine if it could complement the Belt Evaluation Laboratory Test method. This evaluation will occur over a two-year period, consistent with the Panel's recommendation.

The Panel recommended that MSHA revise and repropose the Agency's 1992 proposed rule on the ''Requirements for Approval of Flame-Resistant Conveyor Belts.'' The Panel also recommended that MSHA require the use of improved flame-resistant conveyor belts in all underground coal mines. Consistent with the Panel's recommendations, this proposal would require that conveyor belts in underground coal mines meet the Agency's proposed Belt Evaluation Laboratory Test (BELT). In addition, this proposal incorporates changes in MSHA's approval, quality assurance, and audit procedures.

(b) Rulemaking Background

Existing § 75.1108 requires underground coal mine operators to use only MSHA-approved, flame-resistant conveyor belts meeting the specifications of Part 18. All existing underground conveyor belts are accepted under Schedule 2G. This is a small-scale flame test, originated by the former Bureau of Mines of the Department of the Interior (Bureau), and conducted in a cubicle chamber, using four six-inch (15.2 cm) long by one half-inch (1.3 cm) wide belt samples. Each sample is subjected to the flame from a small natural gas burner for one minute.

In the late 1980s, MSHA and the Bureau developed a flame-resistance test called the Belt Evaluation Laboratory Test (BELT) that measures resistance to flame propagation rather than burn time. The BELT method consists of a mid-scale laboratory apparatus. Three samples of conveyer belt, 60 inches (152.4 cm) long and nine inches (22.9 cm) wide are tested. Flame from a natural gas impinged jet burner is applied to the test sample for five minutes.

On January 17, 1989, MSHA announced a public meeting to discuss the BELT method. Later that year, MSHA released a study on belt entry ventilation. In 1992, MSHA issued a Belt Air Advisory Committee Report. Both of these reports emphasized the need for an improved flame-resistance test that would result in reduced flame propagation of conveyor belts.

On December 24, 1992, MSHA published a proposal to revise the existing regulation for testing and acceptance of conveyor belts (53 FR 61524). On July 15, 2002, the Agency withdrew the proposal (67 FR 46431). This proposed rule would establish the BELT method for the approval of flame-resistant conveyer belts in underground coal mines and require that improved conveyor belts be used.

(c) Use of Conveyor Belts in Underground Coal Mines and Fire History

Conveyor belts used in underground coal mines generally consist of rubber-textile compositions, polyvinyl chloride (PVC), and combinations of rubber covers and solid woven carcass. Rubber belts constructed with steel cords or cable are also used. Typical rubber compounds are styrene-butadiene (SBR), chloroprene (CR), polybutadiene (BR) and copolymer acrylonitrile-butadiene (NBR). The carcass of the conveyor belts may be constructed of layered ply materials such as polyester and nylon or solid woven material impregnated with PVC. The amount of plies can range from 2 to 8 in rubber belts. Belt thickness ranges from about ⅜-inch to over 1-inch and belt width ranges from 36-inches to 96-inches.

The average conveyor belt length for both conveyance and return is: 9,894 feet (3,016 meters) in an average small underground coal mine with 1–19 employees; 51,964 feet (15,839 meters) in an average medium-sized mine with between 20 and 500 employees; and 199,159 feet (60,704 meters) in an average large mine with over 500 employees.

MSHA has reviewed fire incident data for conveyor belt entries in underground coal mines for the period 1980–2007. These data show that fires in conveyor belt entries represent about 15 to 20 percent of all underground coal mine fires. Friction at the belt drive and along the belt was the ignition source for 36 percent of the 65 conveyor belt fires reported. Other sources of belt fires included electrical (13%); hot rollers and bearings (10%); cutting and welding (8%); diesel and hydraulic (3%); and cause undetermined (30%). Data reveal that fires have burned substantial lengths of conveyor belt, as much as 2,000 feet (600 meters). Regardless of the ignition source, once a fire starts, a belt that has poor flame resistance will spread flames along exposed surfaces and eventually ignite other combustibles in the entry, including coal.

European efforts to seek improvements in both flame-resistant conveyor belt properties and testing protocols began in the early 1950s. Similar efforts in the United States were initiated around the same time by the Bureau. The Bureau developed a Schedule 28 (November 9, 1955) for the acceptance of fire-resistant conveyor belts and subsequently amended Schedule 28 (December 9, 1957). Schedule 28 contained a small-scale flame test for acceptance of fire-resistant conveyor belt. Schedule 28 was consolidated into Schedule 2G (30 CFR Part 18) on March 19, 1968. Existing 30 CFR Part 18.65 establishes the small-scale test for the acceptance of fire resistant conveyor belt.

In the 1980s, MSHA began developing a flame-resistance test for conveyor belts that would result in a higher level of flame resistance than the ''2G'' test. A large-scale test facility was constructed at the Lake Lynn Laboratory by the Bureau and MSHA. The large scale tests showed the effect of air flow on belt flammability. These tests were conducted over a wide range of air velocities. MSHA used the large-scale flammability test data to develop the BELT, a laboratory-scale flame resistance test.

MSHA developed the new BELT method to improve the fire resistant capability of belt material, and thereby greatly limit flame propagation. The BELT measures the length of burned belt on the test sample. The BELT is easy to perform, economical, and correlates well with large-scale tests. MSHA and the Bureau have performed extensive testing of the BELT method. Test results over a 34-month period, based on samples of the belt material, reveal that the BELT method is highly precise and accurate. Samples from the same belt pass the existing Schedule 2G Test, but fail under the new BELT.

2. Discussion of Proposed Rule

This proposal would establish a new Part 14 that would include approval requirements for flame-resistant conveyor belt. It would require that improved flame-resistant conveyor belts be used in all underground coal mines. The proposal would also make technical and conforming changes to Parts 6 and 18.

Part 14—Approval of Conveyor Belts in Underground Coal Mines

Subpart A—General

Proposed § 14.1 is derived from existing § 18.1. Part 14 would establish new flame resistance requirements for MSHA approval of conveyor belts for use in underground coal mines. It would also allow applicants for approval, approval holders and those seeking extensions a one year phase-in period to continue to use the acceptance criteria in existing Part 18. During this period, approval holders could apply for a Part 18 acceptance or a Part 14 approval. The Agency specifically solicits comments on the impact of the one year transition period on inventories and associated costs to approval holders.

Proposed § 14.2 would establish definitions applicable to approval of conveyor belts. The proposed definitions are as follows.

''Applicant'', derived from existing §§ 6.2 and 7.2, would refer to an individual or organization that manufactures or controls the production of a conveyor belt and who applies to MSHA for approval.

''Approval'', derived from existing § 7.2, would replace the term ''acceptance'' as defined in existing § 18.2. An approval, which would be issued by MSHA, would show that a conveyor belt has met the requirements of this Part, and would authorize a marking identifying the belt as approved. This is consistent with other MSHA approval regulations which define 'approved' as the general term which indicates that a product has met MSHA's technical requirements.

''Extension of approval'', derived from existing § 7.2, would be defined as a document issued by MSHA which states that a change to a conveyor belt previously approved by MSHA continues to meet the requirements of this Part. An extension of approval would authorize the continued use of the approval marking after the appropriate extension number has been added.

''Flame-retardant ingredient'' would be a new term, and means material that inhibits ignition or flame propagation.

''Flammable ingredient'', would be a new term and would mean material that is capable of combustion.

''Inert ingredient'', a new term, would mean a material that does not contribute to combustion.

''Post-approval product audit'', derived from existing § 7.2, would be an examination and testing of an approved conveyor belt sample to determine if it meets the technical requirements of its approval, and has continued to be manufactured as approved.

''Similar conveyor belt'', would be a new definition, and would apply to a conveyor belt that shares the same cover compound, general carcass construction, and fabric type as another approved conveyor belt. This definition would assist applicants in providing the appropriate information with their applications for approval. Similar belts may be considered as part of a given family, and approved under the same approval number.

Proposed § 14.3, derived from § 18.9(a), would limit the individuals who may be present during testing and evaluation to MSHA, representatives of the applicant, and other persons as agreed upon by MSHA and the applicant. This provision is intended to protect proprietary information. It is consistent with other MSHA approval regulations.

Proposed § 14.4, derived from §§ 7.3 and 18.6, would require applicants to follow certain procedures to obtain approval, or an extension of an approval, for a flame-resistant conveyor belt. This proposal would organize the application procedures into two actions: approval and an extension of an approval.

When requesting approval, proposed § 14.4 would require that the applicant submit all information necessary to properly evaluate a conveyor belt.

Proposed paragraph (a), based on existing §§ 7.3(a) and 18.6(a), would specify how and where an applicant would file for MSHA approval or extension. This procedure includes mail, online, and fax transmission.

Proposed § 14.4(b) would contain information the applicant would need to submit concerning the identification and construction of a conveyor belt. Each application would need to include this information, except any information submitted in a prior approval application need not be resubmitted. An application would address either a single specific construction, or multiple-ply construction consisting of the same cover compound and carcass construction varying only by the number of plies and fabric weight. In addition, if approval of multiple-ply construction is requested, the minimum and maximum number of plies both with thinnest-specified cover thickness and heaviest-specified fabric weight must be tested. These proposed requirements for conveyor belt applications are based on existing § 18.6(c).

Proposed § 14.4(b)(1) would require a technical description of the conveyor belt. This information would include: Trade name (specification or code numbers) or identification number; cover compound type and designation number; belt thickness and thickness of top and bottom covers; presence and type of skim coat; presence and type of friction coat; carcass construction and fabric; presence and type of breaker or floated plies; and the number, type, and size of cords or fabric for metal cord belts.

Proposed paragraph § 14.4(b)(2) would require information on the type of material comprising the conveyor belt (for example, styrene-butadiene rubber (SBR), polyvinyl chloride (PVC), chloroprene, composite, or steel cable). Formulation information on the compounds in the Conveyor belt could be shown by specifying each: (1) Ingredient by its chemical name along with its percentage (weight) and tolerance or percentage range; or (2) flame-retardant ingredient by its chemical or generic name with its percentage and tolerance or percentage range, or its minimum percent. The applicant would need to list each flammable ingredient by chemical, generic, or trade name along with the total percentage of all flammable ingredients. In addition, the applicant would need to list each inert ingredient by chemical, generic, or trade name along with the total percentage of all inert ingredients.

Proposed § 14.4(b)(3) would require that the applicant submit, as part of the application, the name, address, and telephone number of the applicant's representative responsible for answering any questions regarding the application. The applicant may also wish to include the representative's electronic mail (e-mail) address.

Proposed § 14.4(b)(4) would require that an application for approval of a conveyor belt similar to a previously approved conveyor belt include an explanation of any changes from the existing approval, along with the approval number of the belt being changed. Documentation which is listed in the prior approval would not need to be resubmitted.

MSHA's evaluation of whether a belt is similar will determine if the application has to be processed as an extension of approval or a new approval. For example, if a manufacturer submits a 5-ply belt that is identical, except in number of plies, to a family of belts with 3, 4, and 6 plies that has been previously approved, MSHA would likely grant an extension of approval to the 5-ply belt without additional testing.

After receipt of an approval, if the applicant requests an extension of

approval for the original conveyor belt, the applicant would not be required to resubmit documentation duplicative of previously submitted information. Similarly, only information related to changes in the previously approved conveyor belt would be required.

Proposed § 14.4(c) would require that any changes to the documentation of technical requirements of a previously approved flame-resistant conveyor belt must be approved by MSHA prior to implementing the change. This requirement would avoid unauthorized changes being made that could affect the flame-resistant properties of the conveyor belt.

Proposed § 14.4(c)(1) would require that each application for an extension of approval include the MSHA-assigned approval number of the conveyor belt which most closely resembles the new one. Proposed § 14.4(c)(2) would require that the application contain a description of any changes from the existing approval. This information would include the MSHA-assigned approval number for the conveyor belt for which the extension is sought; and a description of the proposed change to the conveyor belt. Proposed § 14.4(c)(3) would require the name, address, and telephone number of the applicant's representative responsible for answering any questions regarding the application. The applicant should also include the representative's e-mail address.

Proposed § 14.4(d) would permit MSHA to make a determination if additional information, samples, and testing are needed to evaluate the application. Additional samples may be requested by MSHA as a result of erroneous test results. This provision would also allow a statement by an applicant to explain reasons why flame testing of a specific conveyor belt may not be necessary.

Proposed § 14.4(e), based on existing § 18.6(a)(3), would permit an applicant to request testing and evaluation using non-MSHA product safety standards that have been determined by the Agency to provide at least the same degree of protection as the MSHA product approval requirements under this Part. This proposed paragraph would permit MSHA to approve products using the equivalent program authorized in § 6.20, entitled ''MSHA acceptance of equivalent non-MSHA product safety standards.''

Proposed § 14.4(f), consistent with existing § 18.6(a), would inform applicants that fees for services will be charged in accordance with Part 5, entitled: Fee for Testing, Evaluation, and Approval of Mining Products.

Proposed § 14.5 is new and would require, upon request by MSHA, the submission of three pre-cut, unrolled, flat samples of conveyor belt, 60 inches (152.4 cm) long by 9 inches (22.9 cm) wide, for flame testing. The proposed laboratory-scale test for flame resistance requires testing of three samples to determine acceptable performance. The proposal would require pre-cut and unrolled flat samples which can be mounted for testing. Samples submitted in an uncut, rolled (coiled) state, require additional time to be cut and flattened for subsequent mounting. MSHA uses the word ''pre-cut'' to inform the applicant that the samples would need to be sent to MSHA already cut to the required sample size.

Curling of samples can cause erroneous test results and has, at times, presented a problem during testing. MSHA has determined that most of this curling effect results from the conveyor belts having a ''pre-set'' from being rolled prior to testing. These proposed requirements, along with the proposed required preconditioning of samples serve to minimize curling of samples. The requirement to submit samples for testing is derived from existing § 18.6(i). However, the requirement for the number and dimension of samples is specific to the BELT method.

Proposed § 14.6, based on existing § 18.10, would address requirements related to the approval. Proposed § 14.6(a), would require that MSHA issue a notice of approval upon the successful completion of the Agency's investigation. The notice of approval would be accompanied by a list of documentation and related material, covering the details of design and construction of the conveyor belt upon which the approval is based. If approval is denied, MSHA will notify the applicant of the reasons for the denial.

Proposed § 14.6(b), based on existing § 18.10(c), would require that an applicant not advertise or otherwise represent a conveyor belt as approved until MSHA's notice of approval is received. To do otherwise would be a violation of MSHA standards and regulations.

Proposed § 14.7, based on existing §§ 7.6 and 18.11(c), would provide for marking of approved conveyor belts and retention of initial sales records.

Proposed § 14.7(a) would specify that approved conveyor belts be marketed only under the name specified in the approval.

Proposed § 14.7(b), based on § 18.65(f), would require conveyor belts to be legibly and permanently marked with the assigned MSHA approval number for the service life of the product. The letters and numbers of the approval marking would need to be at least ½ inch in size. Also, the approval marking would have to be placed at intervals not to exceed 60 feet (18.3 meters) and repeated at least once every foot (30.5 centimeters) across the width of the belt. MSHA proposes this marking method since a conveyor belt's edges can wear as it passes along the conveyor framework, causing fraying. Fraying of conveyor belts, which may occur during normal use, can cause the approval markings on belts to become illegible or worn. Relocating the markings from the edge of the belt to across its width would permit identification of the conveyor belt for a longer time. This method would also enable better identification of conveyor belts cut from larger to smaller widths, or where worn edges are trimmed.

Proposed § 14.7(c) would provide that where the construction of a conveyor belt does not permit marking as prescribed in proposed paragraph (b), other permanent marking may be accepted by MSHA. This proposed provision would allow alternatives for marking conveyor belts.

Proposed § 14.7(d) is new, and would require that the applicant maintain sales records for 5 years following the initial sale of any approved conveyor belt. Information needed on initial sales would be: The sale date, the customer name and address, and the belt identification on a slab, batch or lot basis. MSHA proposes a five-year retention period to conform to MSHA's audit cycle. This proposed time-frame period would also cover the period in which any potentially hazardous defects might be found.

MSHA requests comments on the 5-year retention period for retaining sales records.

The proposal does not specify the format in which the record has to be maintained. MSHA believes that this recordkeeping provision would impose a minimal burden because most manufacturers will use existing records to fulfill this requirement.

Proposed § 14.8 would include requirements for a manufacturer's ongoing quality assurance program. MSHA believes testing is essential to maintain the high level of flame resistance required for conveyor belts in underground coal mines. The specific provisions are new for conveyor belts, they are derived from existing § 7.7.

Proposed § 14.8(a) would require approval holders to perform a flammability evaluation on a sample of: (1) Each batch, lot, or slab of conveyor belts; or (2) inspect or test a sample of each batch or lot of the materials that

contribute to the flame-resistance characteristic. This will assure that the finished conveyor belt slab continues to meet the test for flame resistance.

Proposed § 14.8(b) would require that instruments used for the quality assurance inspection and testing be calibrated according to the instrument manufacturer's specifications. Under the proposal, instruments must be calibrated using calibration standards set by the National Institute of Standards and Technology, U.S. Department of Commerce or other nationally or internationally recognized standards. The proposal also would require that the instruments used be accurate to at least one significant figure beyond the desired accuracy. This calibration sequence is consistent with the procedure under existing § 7.7.

Proposed § 14.8(c) would require that approval holders control all production to assure that the conveyor belt is continuously manufactured as approved. This proposal would require each approval holder to implement procedures to assure that the product conforms to the approval specifications.

Proposed § 14.8(d) would require approval holders to immediately notify the MSHA Approval and Certification Center of any information that a conveyor belt has been distributed which does not meet the specifications of the approval. Notification can be by telephone, e-mail, or facsimile transmission. The notification must include a description of the nature and extent of the problem, the locations where the conveyor belt has been distributed, and the approval holder's plans for corrective action. Corrective action may include recalling the conveyor belt or restricting its use pending resolution of the defect.

Proposed § 14.9, derived from existing § 18.9, would address the disclosure of information on conveyor belts tested and evaluated under part 14. Under the proposal, MSHA intends to treat information on product material, specifications, and processes as potentially protectable under exemption 4 of the Freedom of Information Act (FOIA). Exemption 4 exempts from disclosure ''trade secrets and commercial or financial information'' obtained from an outside source and ''privileged or confidential.'' 5 U.S.C. 552(b)(4). Under the Department's regulations at 29 CFR 70.26, *Business information*, MSHA would notify the applicant of any FOIA request seeking information submitted by the applicant under this proposal. The applicant then would have a reasonable period of time in which to object to disclosure. An objecting applicant must submit a ''detailed written statement'' showing ''why the information is a trade secret or commercial or financial information that is privileged or confidential.'' 29 CFR 70.26(e). MSHA would consider the applicant's objections in deciding whether to disclose the information. If MSHA determines that the FOIA requires disclosure over the applicant's objections, MSHA would notify the applicant of the documents to be disclosed prior to the disclosure date (unless MSHA learns that the material already has been made public lawfully). 29 CFR 70.26(f), (g). Under 29 CFR 70.26(b), when submitting documents, applicants should identify the documents they wish to protect by marking them (such as stamping each page ''Confidential''). MSHA notes that it has no authority under the FOIA to withhold applicant documents requested by a Congressional oversight committee.

Proposed § 14.10, derived from existing §§ 6.10 and 7.8, would provide a mechanism for MSHA to periodically audit approved conveyor belts.

Proposed § 14.10(a) would provide that approved conveyor belts would be subject to periodic audits by MSHA to determine conformity with the technical requirements upon which the approval was based. MSHA would select representative conveyor belts to be audited. Upon request to MSHA, the approval holder may obtain any final audit report.

Proposed § 14.10(b) would require that approval holders make conveyor belts available to MSHA, at no cost, for audit upon request. Three samples sized according to § 14.5 would be required. Audits may be conducted no more than once a year, except for cause. The approval holder may observe any tests conducted during the audit.

Proposed § 14.10(c) would require manufacturers to allow MSHA to conduct an audit for cause at any time the Agency believes that an approved product is not in compliance with the technical requirements of the approval. Audits would allow MSHA to determine whether products are being manufactured as approved. MSHA would select the product, and may, if necessary, obtain products from sources other than the manufacturer such as distributors or wholesalers.

In determining which products to audit, MSHA will consider a variety of factors such as whether the manufacturer has previously produced the product or similar products, whether the product is new or part of a new product line, or whether the product is intended for a unique application or limited distribution. Other considerations could include product complexity, the manufacturer's previous product audit results, extent of the product's use in the mining community, and the time elapsed since the last audit or since the product was first approved.

There are other circumstances or causes when additional audits may be necessary to verify compliance with the technical requirements. Examples of such circumstances would include complaints about the safety or performance of a product, product changes that have not been approved, audit test results that warrant further testing to determine compliance, and evaluation of corrective action taken by an approval holder.

If discrepancies are discovered during an audit, the Agency will provide the approval holder an opportunity to present information. If the approval holder cannot demonstrate compliance, MSHA may initiate revocation proceedings under the revocation provisions of this proposal.

Proposed § 14.11 is derived from existing §§ 18.16, 7.9, and 15.11, and addresses the revocation procedure and rights of approval holders.

Proposed § 14.11(a) provides that MSHA may revoke an approval when a conveyor belt fails to meet the technical requirements of the approval, or creates a danger or hazard when used in an underground coal mine.

MSHA's practice is to treat approval holders as ''licensees'' under the Administrative Procedure Act (APA, 5 U.S.C. 558). Consistent with this practice, proposed § 14.11(b) would provide that approval holders be given certain due process considerations prior to revocation of an approval. These considerations include being provided with (1) a written notice of the Agency's intent to revoke a product approval; (2) an explanation of the reasons for the proposed revocation; and (3) an opportunity to demonstrate or achieve compliance with the technical requirements for approval.

Proposed § 14.11(c) would provide the approval holder the opportunity for a hearing to appeal MSHA's decision.

Proposed § 14.11(d) would provide for immediate suspension of the approval of the product without prior written notice to the approval holder if the product poses an imminent danger or hazard to the safety or health of miners. The suspension may continue until revocation proceedings are completed. Consistent with MSHA's practice, once an approval is suspended, MSHA would notify the public of this action through recall notices on its Web site at *http://www.msha.gov*. All affected products

must be removed immediately from underground coal mines, and MSHA would initiate enforcement action for failure to do so.

MSHA believes that it must have the capability to order removal of noncompliant belt if an imminent hazard is created. Removal would protect miners from potential injury and life-threatening fire hazards.

Subpart B—Technical Requirements

Flame-resistant conveyor belt would be tested under proposed § 14.20(a) in accordance with the flame test specified in proposed § 14.22. This test would assure that conveyor belts are difficult to ignite and thereby are highly resistant to flame propagation. MSHA recognizes that other tests may exist or be developed in the future which could also serve as appropriate for evaluating flame resistant qualities of conveyor belt for use in underground coal mines. Accordingly, proposed § 14.20(b) would permit an alternate test to be used to determine the flame resistance of conveyor belts for approval, as long as the alternate test is determined by MSHA to be equivalent.

Once a determination of equivalency is made an alternate test under existing § 6.20 and proposed § 14.4(e), MSHA would notify the public in the **Federal Register**. Applicants could choose to have their belts tested for approval using the laboratory-scale flame test or the equivalent alternate test.

Proposed § 14.21 would describe the principal parts of the BELT apparatus used to flame-test conveyor belts. Copies of drawings which depict the test apparatus will be available from MSHA upon request.

Proposed § 14.21(a) would require a horizontal test chamber 66 inches (167.6 cm) long by 18 inches (45.7 cm) square (inside dimension). The chamber dimensions were established from the large-scale belt flammability studies. The test chamber is constructed from 1 inch (2.5 cm) thick Marinite® I, or equivalent insulating material. Marinite® I was selected because it is a commercially available noncombustible insulating material that minimizes thermal losses through the walls and is able to withstand repeated test fires. The reference to Marinite® I is not an MSHA endorsement of the product. Should minor cracking occur in the Marinite® I, it can be repaired using an appropriate sealant. However, the Marinite® I or equivalent insulating material must be replaced and not repaired if the crack or break is across the total thickness.

Proposed § 14.21(b) would require a 16-gauge (0.16 cm) stainless steel duct section, tapering over at least a 24-inch (61 cm) length from a 20-inch (51 cm) square cross-sectional area at the test chamber connection to a 12-inch (30.5 cm) diameter exhaust duct, or equivalent. The interior surface of the tapered duct section would be lined with ½ inch (1.27 cm) thick ceramic blanket insulation or equivalent insulating material. The use of stainless steel minimizes corrosion and the tapered duct section allows a smooth airflow to enter the exhaust duct. The tapered duct is lined with ceramic blanket insulation to minimize high duct temperatures and thermal expansion.

Proposed § 14.21(c) requires a U-shaped gas-fueled impinged jet burner igniting source. The U-tube measures 12 inches (30.5 cm) long and 4 inches (10.2 cm) wide with two parallel rows of 6 jets each. The burner jets are slanted so that they point toward each other in pairs and the flames from these pairs impinge upon each other. The burner fuel is methane or natural gas of suitable purity. A burner unit available from the Solarflo® Corporation, Model U–10 using Model Number 640 jets producing 7,500 BTU per hour per jet is suitable to comply with these specifications. This burner unit, which is an impinged jet burner and is the burner type used as the igniting source in the BELT, is listed to assist the public and is not an MSHA endorsement of the Solarflo® product. Any other burner unit which meets the proposed specification would be appropriate to be used as part of the test apparatus. This burner was referenced because it is commercially available and provides a reliable, reproducible ignition source that can burn methane or natural gas. The BELT results correlate well with the large-scale belt flammability test results when using the described burner and gaseous fuel in conjunction with the other parameters.

Proposed § 14.21(d) would require a removable steel rack, consisting of 2 parallel rails and supports constructed from slotted angle iron, to be used to hold a belt sample. The rack dimensions of 7 ± ⅛ inches (17.8 ± 0.3 cm) wide, 60 ± ⅛ inches (152.4 ± 0.3 cm) long and 5 ± ⅛ inches (12.7 ± 0.3 cm) between the rails are specified in the proposal.

Typically, commercially available, 1 inch (2.5 cm) by 1¾ inch (4.4 cm) by ⅛ inch (0.3 cm) thick angle iron with predrilled ¼ inch (0.6 cm) diameter holes spaced 1 inch (2.5 cm) apart is used. The top surface of the rack is 8 ± ⅛ inches (22.9 ± 0.3 cm) from the inside roof of the test chamber. The rack materials and dimensions were selected so that the rack adequately supports the belt sample and withstands repeated tests with only minor warping due to heat while minimizing the rack's thermal mass. The distance from the top surface of the rack to the inside roof of the test chamber was established based on the comparison of the test results and the development of correlation parameters with the large-scale belt flammability studies.

The BELT apparatus does not contain any pollution control system for exhaust fumes created during flame tests. If an applicant chooses to build a test apparatus and perform the BELT for research or quality assurance purposes, some type of effluent control may be required to meet State and local emission standards. There may be a variety of methods and designs that will work to control exhaust fumes without affecting the test results. Because different jurisdictions can have different air quality standards, one pollution control system may not be suitable for all locations. Therefore, each unit should comply with applicable environmental regulations.

Proposed § 14.22 would specify how the test for flame resistance of conveyor belts would be conducted. It would provide that the test be performed in the required sequence using a flame test apparatus meeting the specifications of proposed § 14.21. Measurements are rounded to the nearest tenth of a centimeter.

Small changes in barometric pressure, humidity, and ambient temperature should not have a significant effect on the test results. Published literature indicates that small changes in atmospheric pressure have little or no effect on flame propagation. Variations in ambient temperature did not show a trend in either decreasing or increasing the burn damage of belts tested. A small increase or decrease of relative humidity will not have a significant effect on the flame propagation because conveyor belts are typically impervious to moisture.

The proposal addresses those variables that have an appreciable effect on the test results in order to maintain consistency in the testing method.

Proposed § 14.22(a) would specify the test procedure sequence needed to determine the flame resistance of conveyor belts. The technical dimensions and tolerances critical to the proper conduct of the test and to maintain consistency in the test method are specified in this proposal. Dimensions that have no effect on the test results are specified without a tolerance and are indicated as approximate. For example, in proposed § 14.22(a)(3), the securing locations for the fourth and fifth fastenings are not

critical and, therefore, the dimensions are specified as approximate. However, where dimensions could impact the test results, tolerances for the dimensions are given to maintain the consistency of test conditions.

Proposed § 14.22(a)(1) would require that three belt samples must be preconditioned by being laid flat at 70 ± 10° F (21 ± 5° C) for at least 24 hours prior to the test.This would: assure that the samples are at laboratory temperatures, facilitate sample mounting, and minimize curling during the test.

A conveyor belt that has been rolled prior to testing is more likely to rebound to the rolled position during testing. This action is considered ''curling'' and may lead to erroneous test results. Samples which have been rolled prior to testing can develop sufficient curling forces to overcome the holding capabilities of the cotter pins installed to retain the sample on the rack. Should curling occur, MSHA would need to test additional samples in order to assure that reliable test results have been obtained. The Agency has determined that the use of flat, unrolled samples greatly reduces the occurrence of curling.

Proposed § 14.22(a)(2) would require that the belt sample be placed on the rails of the rack with the load carrying surface facing up. If a belt is constructed without having a designated top cover, it will be mounted without regard to cover orientation. For example, many PVC belts are constructed with a solid woven carcass and the top or bottom cover is not designated. Therefore, either side of the belt could be mounted as the load-bearing cover. The sample must extend 1 ± ⅛ inch (2.5 ± 0.3 cm) beyond the front of the rails and 1 ± ⅛ inch (2.5 ± 0.3 cm) from the outer lengthwise edge of each rail.

This centers the longitudinal axis of the sample along the centerline of the rack with the first inch of the sample in the ignition area and not in contact with the rack. The 1 ± ⅛ inch (2.5 ± 0.3 cm) overlap that extends beyond the front of the rail facilitates ignition of the belt sample by minimizing the thermal heat sink created by the sample rack. A greater overlap can result in the sample curling or pulling back from the burner during the ignition period.

Proposed § 14.22(a)(3) would require that the belt sample be fastened to the rails of the rack by drilling or punching holes along the long edges of the sample and using steel washers and cotter pins as fasteners. Each washer is typically ¾ inch (1.9 cm) square and 1⁄16 inch (0.2 cm) thick with a 3⁄16 inch (0.5 cm) diameter hole. A washer is placed over each sample hole and a cotter pin is inserted through the hole in the belt and rail. The cotter pin is spread apart to secure the sample to the rail. The locations of the fasteners were chosen so that the majority (6 of 10) would be in the ignition area to minimize the belt sample pulling away from the burner, or lifting and curling during the ignition period. Specific fastener locations with tolerances for holes 4 and 5 were not identified. It is MSHA's experience that the exact location of these fasteners is not critical to the retention of the sample and does not influence the test results. Additional fasteners can be used in the ignition region for belts that lift excessively. The fasteners facilitate the secure mounting of the belt sample and are too small to influence the test results by heat absorption, even if additional fasteners are used.

Proposed § 14.22(a)(4) would require centering the rack and mounted sample in the test chamber with the front end of the sample 6 ± ½ inches (15.2 ± 1.3 cm) from the entrance of the chamber. This location reduces the disturbance of the airflow entering the test chamber. The location is based on the correlation of the BELT results to the results of large-scale belt flammability studies.

Proposed § 14.22(a)(5) would require the airflow passing over the belt sample to be 200 ± 20 ft/min (61 ± 6 m/min) as measured by a 4 inch (10.2 cm) diameter vane anemometer, or equivalent device. This anemometer measurement is taken on the inside of the chamber on the centerline of the belt 12 ± ½ inches (30.5 ± 1.3 cm) from the entrance of the chamber. The airflow and measuring location selected are based on comparison of the test results with the large-scale belt flammability studies. MSHA identified the variables that affect the conditions of the test, such as air velocity and the ambient air and tunnel temperatures while conducting several hundred belt flame tests. Therefore, this provision would require the airflow passing over the belt sample to be 200 ± 20 ft/min (61 ± 6 m/min).

Proposed § 14.22(a)(6) would require that, before starting a test of each sample, the inner surface temperature of the chamber roof be measured at points 6 ± ½, 30 ± ½, and 60 ± ½ inches (15.2 ± 1.3, 76.2 ± 1.3, and 152.4 ± 1.3 cm) from the front entrance. A ½ inch (1.3 cm) tolerance is added to the location for the temperature measurement points in paragraph (a)(6) because this tolerance is needed to maintain consistency of the test conditions. The temperature must not exceed 95 °Fahrenheit (35 °Centigrade) at any of these points with the specified airflow passing through the chamber. The temperature of the air entering the chamber during each test of the three samples is also required to be not less than 50 °Fahrenheit (10 °Centigrade). These temperature limits are specified to maintain the repeatability of the test results and to maintain the comparison obtained with the large-scale belt flammability studies. An upper limit on airflow and a lower limit on the temperature of the air entering the test chamber are included as test control parameters. These test parameters are designed to assure the test chamber temperature meets certain restrictions for each of the three tests.

Proposed § 14.22(a)(7) would specify that the burner be positioned in front of the belt sample's leading edge, so that when ignited the flames from the two rows of jets impinge in front of the belt's edge and distribute uniformly on the top and bottom surfaces of the sample. A ⅛ inch tolerance was added to the location dimension for the burner jets. This tolerance is important because it maintains the consistency of the test method. The alignment of the burner provides for the uniform heating of the sample, which is necessary to maintain the consistency of the test results.

The exact burner orientation needed to provide uniform distribution of flame on the top and bottom surfaces of the test sample may vary depending upon the belt sample's thickness. Based upon comparison tests and experience gained in developing the BELT procedure, the burner must be slanted downward from the vertical, at approximately a 15° angle, and located ¾ ± ⅛ inch (1.9 ± 0.3 cm) from the front edge of the belt. Slanting of the burner compensates for the buoyancy of the burner flames. The appropriate burner alignment necessary for uniform distribution of flame may be determined by adjustments prior to igniting the samples under test.

Proposed §§ 14.22(a)(8) and (a)(9) would require that, with the burner lowered away from the sample, the gas flow to the burner be adjusted to 1.2 ± 0.1 standard cubic feet per minute (SCFM) (34 ± 2.8 liters per minute) and be maintained at this value throughout the 5 to 5.1 minute ignition period. Once the test is completed, the flame should be safely extinguished. One standard cubic foot is defined as the amount of gas which occupies one cubic foot at 72 °F and one atmosphere pressure (1 cubic liter at 22 °C and 101 kilopascal. The specified gas flow provides a stable flame and is based on a comparison of the test results with the large-scale belt flammability studies.

After completion of each test, proposed § 14.22(a)(10) would require that the undamaged portion across the

entire width of the sample be determined by examining the tested sample. Blistering, without charring, is not considered damage because blistering could result from the effects of heat rather than the presence of flame. Determining the undamaged portion across the entire width of the sample is necessary for specifying acceptable performance of the conveyor belt.

For acceptable belt performance, proposed § 14.22(b) would require that each of the three tested samples exhibit an undamaged portion across the entire width of the sample length. This criterion is based on the correlation of the BELT results to the results of large-scale belt flammability studies.

Proposed § 14.23 is intended to facilitate the introduction of new technology or new applications of existing technology with respect to conveyor belts. This would provide for the approval of a conveyor belt which incorporates technology for which the requirements of this part are not now applicable.

Conforming Amendments

This proposal would require conforming amendments to existing approval regulations in parts 6 and 18 and safety standards for underground coal mines in part 75.

Part 6—Testing and Evaluation by Independent Laboratories and Non–MSHA Product Safety Standards

The definition of ''Equivalent non-MSHA product safety standards'' under § 6.2 and the applications for equivalency under § 6.20(a)(1) would be amended by adding Part 14 (Conveyor Belts in Underground Coal Mines) to the list of approval parts affected by this proposal. These are administrative and conforming provisions.

Part 18—Electric Motor-Driven Mine Equipment and Accessories

Part 18 would be amended by removing the term ''conveyor belt'' from existing §§ 18.1, 18.2, 18.6(a), 18.6(i), 18.9(a) and 18.65. The revised sections of Part 18 would only relate to acceptance of hoses, and existing § 18.6(c) would be removed and reserved. MSHA is proposing these conforming amendments to part 18 because applications for approval of conveyor belts will be considered only under Part 14.

Part 75—Mandatory Safety Standards—Underground Coal Mines

Subpart L—Fire Protection

Proposed § 75.1108 would require the use of improved flame-resistant conveyor belt in underground coal mines. Under the proposal, until one year after publication in the **Federal Register**, operators could use conveyer belts in underground coal mines which are either: (1) Approved as flame-resistant under Part 14, or (2) accepted as flame-resistant under Part 18. Proposed § 75.1108(b) would require that one year after the effective date of the rule, all conveyor belts purchased for use in underground coal mines must be approved as flame-resistant under Part 14.

Under this proposal, for a period of one year, mine operators would have the option of using conveyor belts which have been accepted under existing part 18, or have been approved under new part 14.

After one year, the mine operator would be required to purchase only belts meeting the requirements of proposed part 14. Mine operators would be permitted to use existing belts until replacement is necessary.

Section 75.1108–1 is removed from the 30 CFR because it is no longer needed.

B. Fire Prevention and Detection and Approval of the Use of Air From the Belt Entry To Ventilate Working Sections

1. General

This proposed rule will enhance miner safety and health by including improved requirements for the use of air from the belt entry, belt maintenance, and fire detection.

The proposal includes: New procedures to approve the use of air from the belt entry to ventilate working sections; replacing point-type heat sensors with carbon monoxide systems in all coal mines; qualifications for AMS operators; requirements for escapeways; limits on respirable dust in the belt entry; maximum and minimum air velocities in the belt entry; standardized tactile signals for lifelines; use of smoke sensors in mines using air from the belt entry; and improved belt entry maintenance.

The Panel was chartered to make recommendations regarding the utilization of air from the belt entry in underground coal mining; therefore, many of its recommendations deal with requirements for only those mines that use air from the belt entry to ventilate working sections. However, the Panel recommended that some requirements should be applied to all underground coal mines. These include: Airlock doors along escapeways; minimum belt entry air velocity; standardized tactile signals for lifelines; maintaining higher ventilating pressures in the primary escapeway to the extent possible; replacing point-type heat sensors with carbon monoxide sensors for fire detection in belt entries; and belt entry maintenance. Consistent with the Panel's recommendations, this proposed rule includes provisions applying to mines that use air from the belt entry to ventilate working sections, as well as to mines that do not.

As a result of the proposed change to require the use of carbon monoxide sensors for fire detection along belt lines in all mines, the Agency is proposing to revise several other related provisions. These include sensor spacing, establishing a warning level, responses to warning and malfunction signals, testing and calibration requirements, and minimum air velocity to incorporate the use of carbon monoxide sensors.

The Agency is aware that some mines currently use carbon monoxide sensors to monitor the belt entry under granted petitions for modification or existing provisions which allow systems equivalent to point-type heat sensors. These would be superseded by a final rule, and operators would be required to comply with all new requirements.

This part of the proposal addresses the following Panel recommendations:

- Recommendation number 5—Belt entry and conveyor belt maintenance;
- Recommendation number 6—Special requirements for the use of belt air;
- Recommendation number 7—Belt air approval recommendation;
- Recommendation number 8—Discontinuing point-type heat sensors;
- Recommendation number 9—Smoke sensors;
- Recommendation number 10—Use of diesel-discriminating sensors;
- Recommendation number 12—AMS operator training certification;
- Recommendation number 13—Minimum and maximum air velocities;
- Recommendation number 14—Escapeways and leakage;
- Recommendation number 15—Lifelines;
- Recommendation number 16—Point-feeding;
- Recommendation number 17—Respirable dust; and
- Recommendation number 18—Mine methane.

2. Discussion of Proposed Rule.

Part 48—Training and Retraining of Miners

Subpart B—Training and Retraining of Miners Working at Surface Mines and Surface Areas of Underground Mines

Section 48.27(a)—Training of Miners Assigned to a Task in Which They Have Had no Previous Experience; Minimum Courses of Instruction

The Panel recommended that MSHA initiate rulemaking to require the qualification and certification of AMS operators. To address Panel recommendation 12, MSHA is proposing a revision to existing § 48.27(a), and adding a new § 75.156.

Proposed § 48.27(a) would require that miners assigned new work tasks as Atmospheric Monitoring System (AMS) operators be trained before they perform these duties. MSHA believes that AMS operators must have the background, experience, training, and authority to assure that proper actions are taken in response to AMS signals, including alerts, alarms, and malfunctions, to provide the highest degree of safety to all affected miners.

Existing § 48.27(a) requires that a training plan be approved by MSHA for specific tasks, and that the training be provided prior to the miner performing those tasks. The Agency is proposing to add AMS operators as a specific task to be covered by this provision. AMS operators are required only at mines using air from the belt entry to ventilate working sections and areas where mechanized mining equipment is being installed or removed.

Part 75—Mandatory Safety Standards—Underground Coal Mines

Subpart B—Qualified and Certified Persons

Section 75.156—AMS Operator, Qualifications

Proposed § 75.156(a) would require that to be qualified as an AMS operator, a person shall be provided with task training in accordance with the mine operator's approved part 48 training plan. MSHA recognizes a significant portion of the knowledge necessary is mine-specific and must be tailored to conditions at each operation. MSHA is proposing that this task training be provided, at each mine where the AMS operator performs these duties.

Current AMS operators must have been provided task training under an approved part 48 plan to be considered qualified under § 75.156(a). To continue to perform the functions of a qualified AMS operator after the effective date of a final rule, this training must be provided.

The proposed training requirements would give the Agency oversight in the review and approval of the part 48 training plan for AMS operators, and allow MSHA inspectors to determine the effectiveness of this training. Under the proposal, AMS operators would need to be task trained at each mine in which they perform these duties due to different AMS designs, variations in ventilation plans and systems, complexities of evacuation plan requirements, and uniqueness of the mine configurations. MSHA will develop a compliance guide to assist mine operators in identifying essential elements to be included in the training plan.

Proposed § 75.156(b) would require that an AMS operator must be able to demonstrate to an authorized representative of the Secretary that he/she is qualified to perform the assigned tasks. The inspector will make a determination about the AMS operators qualifications during regular inspections. In making this determination, the inspector would ask the AMS operator questions regarding: The responses to AMS signals; notification requirements; approved mine plans; recordkeeping requirements; and AMS operating requirements. This would assure that the AMS operator fully understands how to operate and respond to the AMS.

The Panel also recommended certification or qualification of the responsible person, who is required in § 75.1501, to take charge during mine emergencies. MSHA addressed training of responsible persons in the Agency's final rule on Mine Rescue Teams (73 FR 7636).

Subpart D—Ventilation

Section 75.323—Actions for Excessive Methane

In Recommendation 18, the Panel stated that methane liberated from ribs along the belt, or from the broken coal on the belt, can present significant safety hazards. The Panel stated that if methane levels in the belt air course are too high to provide dilution of methane liberated at the working sections, then the use of the air from the belt entry to ventilate a working section should be discontinued.

To address the Panel's concern, MSHA is considering adding a new provision concerning methane levels in the belt entry. While this proposal does not contain a specific provision on this issue, MSHA is requesting comments on including a requirement in the final rule which would limit methane levels in the belt entry when the air from that entry is used to ventilate the working section. In making its recommendation, the Panel wanted to assure that ventilating in this manner would not increase the methane content at the working section. This new provision would provide an added margin of safety for miners as well as a greater probability that methane would be reduced when the air reaches the working section.

The Panel recommended that the District Manager regularly evaluate any working section that has methane readings in the belt entry at or above 0.5% methane, measured 200 feet outby the tailpiece of the belt, to prevent the gas liberated on a conveyor belt or from the belt entry from increasing the methane content at the working section above 1.0%.

Under the existing standard, the allowable limit for methane in belt air courses is 1.0 percent because of the potential fire and ignition sources in the belt entry. MSHA believes that this new provision would be consistent with the Panel's recommendation, and its intent that methane levels in the belt entry be kept to a minimum.

MSHA is considering including a specific requirement in the final rule that the mine operator make changes or adjustments to reduce the concentration of methane present in the belt entry as measured 200 feet outby the section loading point. At this point in the rulemaking, MSHA is considering requiring that operators take action when methane is between a range of 0.5 and 1.0 percent. MSHA is soliciting comments on the appropriateness of such a standard and on the specific level at which changes or adjustments should be made.

In its existing enforcement program, MSHA measures methane levels in the belt air course as part of the regular inspections made at all underground coal mines. As suggested by the Panel, MSHA will check the methane levels in belt air courses 200 feet outby the section loading point to assure that methane levels in the working section are not increased as a result of using air from the belt entry.

Section 75.333(c)(4)—Ventilation Controls

Proposed § 75.333(c)(4) is a new provision that addresses Panel Recommendation 14 dealing with airlock doors. High pressure differentials on doors can lead to serious injuries to miners opening and closing these doors. Providing an airlock between entries provides a safe means

for miners to travel between two air courses. An airlock consists of a pair of doors installed in ventilation controls between two air courses, which form a pressure equalizing chamber. A miner would open the first door, enter the airlock, and close the door. After equalizing the pressure, the miner can then open the second door and move into the adjacent entry.

The Panel stated that personnel doors along escapeways should be installed to establish an airlock when the static force created by the pressure differential exceeds 125 pounds.

MSHA agrees that there may be instances where the installation of an airlock is needed due to hazards associated with safely opening and closing personnel doors where high pressure differentials exist. The need for safe access is critical during a mine emergency evacuation when miners must move quickly to adjacent entries.

Proposed § 75.333(c)(4) would require an airlock be established where the air pressure differential between air courses creates a static force exceeding 125 pounds on closed personnel doors along escapeways. MSHA specifically solicits comments on other suitable pressures.

The Panel recommended a standard based upon the force on the personnel door of 125 pounds. This force on any specific door is dependent upon the pressure differential across the ventilation control, and the surface area of the personnel door. For the same pressure differential, the force required to open a personnel door increases proportionately with surface area. Mine operators may have alternatives to establishing airlocks, including reducing the size of a personnel door, providing a flap, or sliding door, which may reduce the static pressure to below 125 pounds. Reducing the size of a personnel door may lower the static pressure to below 125 pounds.

In order to calculate the force exerted by a pressure differential, the pressure differential and door dimensions must first be determined. As reflected in the Panel's example, a 125 pound force limitation on a 3-foot by 4-foot door would be created by a pressure differential of 2.0 inches of water. A 3-foot by 4-foot personnel door has an area of 1728 square inches ($3' \times 4' = 12$ square feet $\times$ 144 in^2/ft^2 = 1728 square inches). For a force of 125 pounds, the distribution is 0.0725 pounds per square inch (125 lb/1728 in^2= 0.0725 psi). Using the conversion factor, 1 psi = 27.68 inches of water, the equivalent pressure differential can be calculated to be 2.0 inches of water (0.0725 psi $\times$ 27.68 in. H_2O/psi = 2.0 inches of water).

The following table shows the door sizes and associated pressure differentials which create a 125 pound force:

Door area, square feet	Pressure differential, inches H_2O
4	6.0
6	4.0
9	2.7
10	2.4
12	2.0

The Agency solicits comments on the number of airlocks that would be required under this provision and the associated cost.

Section 75.350—Belt Air Course Ventilation

Proposed § 75.350(a)(2) would include a new requirement that the minimum air velocity in the belt entry be at least 50 feet per minute. MSHA has included this new requirement because of proposed § 75.1103–4 (fire detection systems) which, consistent with the Panel's recommendation, would prohibit point-type heat sensors for early-warning and detection of conveyor belt fires, and require the carbon monoxide fire sensor systems in all belt entries.

When point-type heat sensor (PTHS) systems are used for fire detection, no minimum velocity in the belt entry is needed because the sensors are heat-activated. When carbon monoxide sensors are used, a minimum air velocity of 50 feet per minute is necessary to assure that carbon monoxide gas produced by a fire will be carried by the air current to the downwind sensors in a timely manner. This minimum velocity has been required for over two decades in mines using carbon monoxide sensors for fire detection, and has been shown to provide effective early warning.

Under the proposal, lower velocities could be requested by the mine operator in the ventilation plan in areas where the minimum velocity cannot be maintained. Where the District Manager approves such a plan, carbon monoxide sensor spacing would have to be reduced to no greater than 350 feet. NIOSH research and Agency experience show that the reduced spacing is necessary to assure carbon monoxide resulting from a fire is moved quickly from a fire to downwind sensors.

Proposed § 75.350(b) addresses Panel Recommendation 7, which states that MSHA should evaluate, as part of the approval of the mine ventilation plan, the safety of the use of air in the belt entry to ventilate working sections. The Panel further stated that the District Manager must take special care to evaluate whether the air from the belt entry can be routed to the working face in a manner that is safe for all miners involved.

Under the proposal, MSHA would revise existing § 75.350(b) to require that the use of air from a belt entry to ventilate a working section be permitted only when evaluated and approved by the District Manager in the ventilation plan. Under the proposal, the mine operator would have to provide information in the plan that the use of air from the belt entry affords at least the same measure of protection where belt haulage entries are not used to ventilate working places. The mine operator should include and the District Manager would consider technical reasons to use air from the belt entry as an intake air source for the section. These reasons include dilution of methane gases and respirable coal mine dust, improved balancing of ventilation pressures between entries to minimize contamination of escapeways, and reduced ground control hazards. In developing cost estimates for the Agency's Preliminary Regulatory Economic Analysis, MSHA assumed that mines currently using belt air would continue to use belt air under the proposal. In making a determination as to whether to approve the plan, the District Manager will evaluate all of the conditions in the mine and the operator's information.

Under the proposal, MSHA would allow a 3-month delayed compliance date for mine operators to submit a revision of the ventilation plan to the District Manager. Failure to submit a revised ventilation plan would result in enforcement action by the Agency.

MSHA will evaluate revisions to the mine ventilation plans consistent with the existing policy and procedure for plan approval. The Agency will approve those plans and revisions that assure the use of air from the belt entry to ventilate working sections affords at least the same measure of protection where belt haulage entries are not used to ventilate working places. The District Manager will notify the operator in writing of the approval or denial of approval of a proposed ventilation plan or proposed revision. A copy of this notification will be sent to the representative of miners by the District Manager. If the District Manager denies approval of a proposed plan or revision, the District Manager will notify the operator, in writing, of the deficiencies and provide an opportunity for discussion with the District Manager. The District Manager will also notify the operator of the

deadline for submitting the required information.

If the operator does not respond by the deadline, or if issues cannot be resolved through discussion, the District Manager will send a second letter notifying the operator: (1) That the plan can not be approved; (2) of the final deadline for submitting any required information; and (3) that after that deadline, the plan will be revoked. If the operator does not submit the required information, the District Manager would send a letter notifying the operator that the plan is revoked. Revocation would not be effective until completion of current mining.

Operating after the revocation date is a violation of the standard requiring an approved plan. A citation would be issued for failure to have an approved plan, as required by the ventilation standard. MSHA solicits comments on this provision. The Agency is particularly interested in comments related to circumstances in which the District Manager does not approve the continued use of belt air to ventilate active workings.

MSHA recognizes that there are potential sources of fire in belt conveyor entries, and that the use of air from the belt entry to ventilate working sections can result in contaminants from a fire being carried to the working section. The Agency also recognizes that there may be technical reasons to use air from the belt entry as an intake air source for the section. These reasons include dilution of methane gases and respirable coal mine dust, and improved balancing of ventilation pressures between entries to minimize contamination of escapeways.

Based on Agency experience, MSHA has determined that ground control hazards may require a reduction in the number of entries developed on a working section, as well as the use of air from the belt entry to supplement the intake air quantity. Under the proposal, the District Manager will have the authority to approve the use of air in the belt entry to ventilate the working section only in sections developed with three or more entries. Like the existing standard, a petition for modification will be required for a mine developing sections with two entries to use air from the belt entry to ventilate the working section or to put the belt in the return air course.

To address the hazards associated with the use of belt entry air, an operator's request to use air from the belt entry to ventilate the working section must include additional protections for the safety of miners in the event of a fire in that entry. Under the existing standards, these protections include an early-warning fire detection system that will rapidly alert miners to a fire in the belt entry and allow time to escape; training for miners on required actions when an alert or alarm occurs; limiting to fifty percent the amount of air that can be delivered to the section from the belt entry; and monitoring of carbon monoxide levels upwind of point-feed regulators. Consistent with the Panel's recommendations, the Agency is proposing additional requirements that the District Manager would consider when approving a ventilation plan to allow the use of air from a belt entry to ventilate the working section.

Under the existing § 75.350(b)(3), the average concentration of respirable dust in the belt air course, when used as a section intake air course, must be maintained at or below 1.0 mg/m^3. Proposed § 75.350(b)(3) would additionally require that where miners on the working section are on a reduced respirable coal mine dust standard that is below 1.0 mg/m^3, the average concentration of respirable dust in the belt entry must be at or below the lowest applicable respirable dust standard on that section.

In Recommendation 17, the Panel stated that respirable coal mine dust concentrations in the air coursed through a belt conveyor entry, and used to ventilate working sections, should be as low as feasible and must not exceed the existing regulated concentration of 1.0 mg/m^3. The Panel also stated that District Managers should have the authority to require improvements in dust control in the belt entry if the dust concentration exceeds an 8-hour TWA of 1.0 mg/m^3 or raises the concentration in that section above the exposure limit.

Reduced standards are frequently established on working sections due to presence of respirable quartz. The exposure limit for respirable coal mine dust is 2.0 mg/m^3 when quartz levels are five percent or less. This standard is reduced when respirable dust in the mine atmosphere contains more than five percent quartz. Reduced standards are computed by dividing the percent of quartz measured in the mine atmosphere into the number ten. For example, if the mine atmosphere contains 20 percent quartz, the reduced standard would be 0.5 mg/m^3 (10/20 = 0.5 mg/m^3). The purpose of reduced standards is to limit miner exposure to respirable quartz.

This proposal assures that the respirable coal mine dust exposure of miners on the working section would not be increased by the use of air from the belt entry. For example, if the standard for the continuous miner operator (the designated occupation) is 2.0 mg/m^3 and the reduced standard for the roof bolter on the same working section (a designated area) is 0.8 mg/m^3, the average concentration of respirable dust in the belt entry used to ventilate that working section could not exceed 0.8 mg/m^3. This is because 0.8 mg/m^3 is below 1 mg/m^3 and is the lowest applicable respirable dust standard on the section.

If a mine operator is unable to effectively reduce the respirable dust levels in the belt entry to meet this proposed requirement, the District Manager would have the authority to revoke the ventilation plan which had allowed the use of air from the belt entry to ventilate the working section.

MSHA believes that technology is available to effectively lower respirable dust levels in the belt entry. Because a principal source of respirable dust is at belt transfer points, technologies such as improved water sprays may reduce dust concentrations. If a mine operator reduces the air velocity in the belt entry, this could result in less scouring and lower respirable dust concentrations. As the Panel indicated, the operator should implement improved engineering controls whenever possible, or use air from another intake air course.

The Agency solicits comments on this provision for assuring that air from the belt entry does not increase miners' exposure to respirable coal mine dust.

Proposed §§ 75.350(b)(7) and (b)(8) are new provisions to address Recommendation 13. The Panel recommended minimum and maximum air velocities in belt entries for mines using air from belt entries to ventilate working sections. The Panel recommended a minimum velocity of 100 feet per minute, and a maximum of 1,000 feet per minute in the belt entry, but acknowledged that there are situations where these velocities may be difficult to maintain. For this reason, the Panel recommended allowing the District Manager to approve exceptions to the minimum and maximum velocities.

In its report, the Panel provided three reasons for requiring a minimum velocity of 100 feet per minute: Improve the response time for fire detection; reduce the possibility of methane layering; and mitigate underground fog formation. The Panel recommended limiting the maximum velocity to 1,000 feet per minute to address physical discomfort to workers when air from the belt entry is used to ventilate working sections. Also, according to the Panel, when air from the belt entry is used to ventilate working sections, increased

velocity will result in a greater entrainment of dust particles, resulting in a need to limit the velocity.

Consistent with the Panel's recommendations, proposed § 75.350(b)(7) would require a minimum air velocity in the belt entry of 100 feet per minute. Proposed § 75.350(b)(8) would require a maximum air velocity of 1,000 feet per minute in the belt entry.

In its report, the Panel noted that it may be difficult to achieve minimum air velocities in locations outby point-feed regulators, and where the air meets a partial obstruction like an airway constriction at an overcast or undercast. MSHA believes that additional areas where minimum air velocities may be hard to achieve include where additional air is added to the belt air course, and in areas where entry height is exceptionally high.

Consistent with the Panel's recommendation, the proposal provides that the District Manager may approve exceptions to the minimum and maximum velocities based on specific mine conditions. These exceptions would be permitted where reductions to sensor spacing or alert and alarm levels are made to assure the fire detection capabilities of the AMS are maintained. In developing their ventilation plans, mine operators should use the criteria in NIOSH research (RI 9380) to determine appropriate alert and alarm levels.

Proposed §§ 75.350(d)(1) and (d)(7) address Recommendation 16. The Panel recommended that for mines using air from the belt entry to ventilate working sections and areas where mechanized mining equipment is being installed or removed, where possible, a second carbon monoxide sensor be installed in the primary escapeway 1,000 feet upwind of the sensor required by the existing standard. The Panel also recommended that, when these sensors detect alert or alarm levels of carbon monoxide and the mine has designated the belt as the alternate escapeway, the AMS operator should have the ability and authority to remotely close or open the point-feed regulator after consulting with the responsible person designated by the mine operator to take charge during mine emergencies.

MSHA is aware that point-feeding air from the primary escapeway to the belt entry designated as the alternate escapeway can present significant problems for miners who must evacuate the mine due to a fire in the primary escapeway.

Proposed § 75.350(d)(1) would require a second carbon monoxide sensor to be installed 1,000 feet upwind of the point-feed regulator, unless the mine operator requests a lesser distance be approved by the District Manager in the mine ventilation plan based on mine-specific conditions. The proposal would allow the District Manager to approve a lesser distance in the ventilation plan, dependent upon mine conditions. For example, it may be necessary to request a lesser distance near intake shafts where the distance from the point-feed regulator to the bottom of the shaft may be less than 1,000 feet.

The second sensor would monitor the primary escapeway for fire. Agency experience suggests this is possible in most cases since these regulators are typically near the mouth of development panels or deep into the mains of the mine.

MSHA believes that this proposal would expedite initiation of escape in the case of a fire or other emergency. Under the proposal, fire in the primary escapeway would be detected before contaminants would be allowed to inundate the secondary escapeway. This early-warning would provide the AMS operator and responsible person with additional time to assess potential hazards and determine necessary corrective actions.

Proposed § 75.350(d)(7) would require that where point-feeding air from a primary escapeway to a belt entry designated as an alternative escapeway, point-feed regulators be equipped with a means to remotely close the regulator or any other means to isolate the two escapeways. The AMS operator, after consultation with the responsible person and section foreman, would be capable of performing this function from the designated surface location. In case of fire or other emergency, closing of the point-feed regulator provides necessary separation of the primary and alternate escapeways.

This proposal permits the mine operator to close the regulator or provide an alternate means of isolating the two escapeways from the surface. The Agency believes that, in some cases, it may be more effective to provide an alternate means of isolation, such as an overhead door, than to close regulators.

When an investigation into the cause of alert and alarm signals is conducted, the AMS operator, responsible person, and section foreman would consult to determine the need to close point-feed regulators. The decision to close point-feed regulators would be made based on this consultation as recommended by the Panel.

Closure of a regulator can reduce the intake air quantity on a working section, and may cause sudden and rapid increases in methane concentrations at the working sections if mining continues. Closing regulators without notifying sections may lead to an ignition in the face area, fires and explosions.

This provision would also apply if the belt entry is common with another entry designated as the alternate escapeway, and the belt air course is used as a section intake. However, this provision would not apply if the mine is point-feeding a belt air course which is not used to ventilate a working section, or if the belt air course entry is not designated as the alternate escapeway.

The Panel also recommended requiring a means to remotely open the regulator from the designated surface location. Because the point-feed regulator is open under normal mining conditions, the Panel's recommendation would address re-opening the regulator after it is closed during a fire in the primary escapeway. MSHA believes that remote reopening could be accomplished by an electric device, such as an electric arm.

MSHA has not included a requirement for providing a means for re-opening the regulator from the designated surface location in the proposal. Even though reopening the point feed regulator could possibly be necessary if the airflow change caused by closing the point-feed turns out to have adverse effects on mine ventilation or smoke travel and must be reversed, MSHA believes that once evacuation is completed, the need for remote re-opening of the regulator will be rare. The Agency, however, solicits comments on whether a requirement to remotely re-open the regulator should be included in the final rule. Please be specific in your response, including the value of such a provision, alternatives, rationale, safety benefits to miners, technological and economic feasibility, and data to support your comment.

Section 75.351(b)—Designated Surface Location and AMS Operator

Proposed § 75.351(b)(2) addresses Panel Recommendation 12. In that recommendation, the Panel indicated that the highest priority of the AMS operator should be monitoring and responding to system signals.

Consistent with the Panel's recommendation, the proposal would require that AMS operators have as a primary duty the responsibility to monitor the malfunction, alert, and alarm signals of the AMS and to notify appropriate personnel of these signals. Under the proposal, the AMS operator would not be prohibited from performing additional duties as long as the alert, alarm and malfunction signals can be seen or heard, and a timely

response can be initiated. This proposal would assure that the AMS operator's other duties would not adversely affect his/her primary responsibility of responding to AMS signals.

Section 75.351(e)—Location of Sensors—Belt Air Course

Proposed § 75.351(e) addresses additional requirements for the location of carbon monoxide and smoke sensors in mines using air from belt entries to ventilate working sections. The proposal contains other organizational and clarifying changes.

Proposed § 75.351(e)(1), renumbered from existing § 75.351(e), addresses the location of approved sensors. The term approved has been added to clarify that all sensors used for fire detection must be approved under the existing authority of § 75.1103–2. The reference to smoke sensors has been deleted, since the requirements for smoke sensors would be addressed in § 75.351(e)(2).

Proposed §§ 75.351(e)(1)(i) and (ii), are renumbered from existing §§ 75.351(e)(1) and (2). No other changes have been proposed to these provisions.

Proposed § 75.351(e)(1)(iii), renumbered from existing § 75.351(e)(3), conforms the existing standard for sensor spacing to the minimum velocity of 100 feet per minute addressed in Panel Recommendation 13. At mines using air from the belt entry to ventilate the working sections, proposed § 75.351(e)(1)(iii) would require 1,000-foot sensor spacing where the minimum air velocity of 100 feet per minute (fpm) is maintained. If the mine operator requests approval to use velocities less than 100 fpm, but at least 50 fpm, maximum sensor spacing must be reduced to 500 feet. The proposal retains the existing requirement to reduce sensor spacing to 350 feet when the minimum velocity is less than 50 fpm.

The requirement for a minimum velocity in the belt entry is based on the time it would take for carbon monoxide or smoke to travel from a fire to the sensors. When the air velocity is reduced, the time required to carry carbon monoxide gas or smoke to a sensor is increased. Therefore, the distance between sensors needs to be reduced to maintain the same level of early-warning fire detection.

The proposed 500-foot spacing interval for velocities between 50 and 100 fpm is a new requirement. MSHA calculated the proposed spacing requirement, which provides a 10-minute maximum travel time for gases between sensors. The 500-foot spacing requirement with a velocity between 50 and 100 fpm is equivalent to the 1,000-foot sensor spacing with 100 fpm air velocity. The time for carbon monoxide gas or smoke to travel from a fire to a downwind sensor is no greater than 10 minutes.

Under the existing standard for sensor spacing of 1,000 feet and a minimum velocity of 50 fpm, the time for carbon monoxide or smoke to travel from a fire to the sensors is no more than 20 minutes. The proposed reduction in travel time for carbon monoxide or smoke to reach the sensors would significantly improve early detection of a fire in the belt entry.

Proposed § 75.351(e)(1)(iv) has been revised to add the requirement that if the distance between the belt drive unit, tailpiece transfer point, and belt take-up unit is more than 100 feet, an additional sensor would be required to monitor each of these belt conveyor components. These components are potential fire sources. The additional sensors will assure earlier detection of a fire.

Proposed § 75.351(e)(1)(v), is renumbered from existing § 75.351(e)(5). No other changes have been proposed to this provision.

Proposed § 75.351(e)(2) is a new provision which addresses Panel Recommendation 9. The Panel recommended that MSHA require the use of smoke sensors in addition to carbon monoxide sensors in mines using air from a belt entry to ventilate working sections at three specific locations. Under this proposal, smoke sensors would be required to be installed in areas where air from the belt entry is used to ventilate working sections and areas where mechanized mining equipment is being installed or removed.

When smoke sensors become available, mine operators must comply with the requirements for installing both smoke and carbon monoxide sensors in those mines that use air from the belt entry to ventilate the working section.

Proposed § 75.351(e)(2)(i) would require a smoke sensor to be installed at or near the working section belt tailpiece in the air stream ventilating the belt entry. In longwall mining systems, the sensor would be located upwind in the belt entry at a distance no greater than 150 feet from the mixing point where intake air is mixed with the belt entry air at or near the tailpiece. A smoke sensor at or near the section tailpiece will warn miners of smoke prior to it contaminating the working section. This allows more time for miners to evacuate the section with less exposure to potentially toxic fumes.

Proposed § 75.351(e)(2)(ii) would require a smoke sensor to be installed not more than 100 feet downwind of each belt drive unit, each tailpiece transfer point, and each belt take-up. Under the proposal, if the belt drive, tailpiece, and take-up for a single transfer point are installed together in the same air course, they may be monitored with one sensor located not more than 100 feet downwind of the last component of the belt drive. However, if the distance between the belt drive unit, tailpiece transfer point, and belt take-up units is more than 100 feet, an additional sensor would be required to monitor each of these belt conveyor components. These components are potential fire sources. The additional sensors will assure earlier detection of a fire.

Based upon the Panel's report and Agency experience, MSHA believes that smoke sensors provide additional protection at the belt drive, which can be a major source of frictional heating from belt slippage. This can often produce significant smoke with little carbon monoxide, and can result in a belt fire.

Proposed § 75.351(e)(2)(iii) would require smoke sensors to be installed at intervals not to exceed 3,000 feet along each belt entry. The Agency is not proposing to require a smoke sensor to be installed near the mid-point of the belt line as recommended by the Panel. The midpoint of the belt line will change with section advancement or retreat, which would require splicing of the data line when relocating the smoke sensor. The frequent splicing of the data lines could allow moisture and dust to enter the line and may result in communication failures. Miners have indicated that frequent splicing of the cable containing the AMS data line can adversely affect the reliability of a system.

MSHA believes the proposed requirement for smoke sensors along the belt entry is responsive to the Panel's goal for more effective and reliable detection of conveyor belt fires. The proposal would avoid problems associated with frequent relocation of the smoke sensor. The 3,000-foot spacing proposal would require longer belts to be monitored at additional locations.

In its report, the Panel suggested a delayed effective date for the smoke sensor requirement, to permit in-mine evaluation of the sensors. The Panel noted reliability and maintenance issues with the use of smoke sensors in underground coal mines, especially along conveyor belt entries. NIOSH is currently testing smoke sensors used in other harsh industrial environments for their potential use in underground

mines. NIOSH is evaluating these sensors to assess reliability and service life.

To allow for further in-mine evaluation and approval of smoke sensors, MSHA proposes in § 75.351(e)(2)(iv) that this provision be effective one year after the Secretary has determined that a smoke sensor is available to reliably detect fire in underground coal mines. The Secretary's determination would be made after a nationally recognized testing laboratory formally lists a smoke sensor specifically tested for use in underground coal mines. In making the determination regarding the availability of smoke sensors, the Secretary will also consider whether additional rulemaking is appropriate. MSHA will notify mine operators of the availability of smoke sensors by publishing a notice in the **Federal Register**.

This proposal is based on the Secretary's existing authority under § 75.1103–2 to approve nationally recognized testing laboratories. The Secretary has approved two such laboratories for listing or approving components of automatic fire sensors. They are Underwriters Laboratories (UL) and Factory Mutual (FM). These laboratories establish standards for manufacturers of components of automatic fire sensors used in underground coal mines.

MSHA has recommended change to a commercial standard for smoke detectors to be applied to address sensor reliability in underground coal mines. In December 2002, the Agency asked UL to add a category for smoke sensors for underground coal mines to their commercial performance standard for smoke sensors (UL268). In MSHA's request to UL, the Agency asked that the performance standard for smoke sensors include tests for sensitivity to smoldering and flaming coal. UL has formed a new working group, which includes an MSHA representative, to study false alarms caused by coal mine dust and other airborne particulates.

MSHA's Program Policy Manual provides additional guidance on the requirements of § 75.1103–2. The Manual states that fire sensors used in belt entries must be listed or approved by UL or FM. New or unique devices to be used as fire sensors that are not yet listed by UL or FM and which may meet the requirements of these standards can be submitted to MSHA's Office of Technical Support for a determination of whether they are acceptable to use.

Once a laboratory has formally listed a smoke sensor for use in underground coal mines, the Secretary will evaluate the sensor to determine if it will reliably detect a fire in the underground environment. MSHA believes that, once the smoke sensors for underground coal mines are available, one year will allow mine operators using air from belt entries to ventilate working sections sufficient time to purchase and install the sensors. The Agency intends to keep the mining community informed of ongoing activities with respect to the development of smoke sensors for underground coal mines.

Section 75.351(q)—Training

Proposed § 75.351(q) addresses Panel Recommendation 12. Consistent with the Panel's recommendation, the proposal would specify the content of required annual training for AMS operators.

Proposed § 75.351(q)(1) would require training subjects to include: Familiarity with underground mining systems; basic atmospheric monitoring system requirements; the mine emergency evacuation and firefighting program of instruction; the mine ventilation system including planned air directions; appropriate responses to alert, alarm and malfunction signals; use of mine communication systems including emergency notification procedures; and AMS recordkeeping requirements. MSHA expects the training to address the specific conditions and practices at the mine where the AMS operator is employed. Based on Agency experience, MSHA believes an understanding of these subjects is essential to properly perform the duties of an AMS operator.

Proposed § 75.351(q)(2) is new and would require that, at least once every six months, all AMS operators must travel to all working sections to retain familiarity with underground mining systems including haulage, ventilation, communication, and escapeways. The Panel stated that some AMS operators do not travel underground, and recommended that they be required to spend at least a day underground on a semi-annual basis. MSHA believes that the requirement in this proposal would allow AMS operators to retain familiarity with the mine.

Proposed § 75.351(q)(3) is changed to require records of the training be maintained for at least two years. The existing requirement is one year. This will allow MSHA to verify the training in the previous year has been conducted.

Section 75.352—Actions in Response to AMS Malfunction, Alert, or Alarm Signals

Proposed § 75.352(f) includes a conforming reference and organizational changes. It would delete the terms ''50-foot per minute'' and replace the reference to § 75.351(e)(3) with § 75.350(b)(7).

Proposed § 75.352(g) is a new provision addressing Panel Recommendation 16. The Panel recommended that when both of the sensors installed in the primary escapeway monitoring the point feed reach the carbon monoxide alert level, or if one sensor reaches the alarm level, a warning signal be given at the regulator location.

The Panel's recommendation addresses point-feed regulators where air is introduced to a belt entry and used to ventilate the working section. The Panel specifically limited this recommendation to point-feed regulators feeding the belt entries designated as alternate escapeways. Panel Recommendation 16, which relates to the installation of an additional sensor and remote closing of the point-feed regulator, is addressed by proposed § 75.351(d)(1) and (d)(7).

Proposed § 75.352(g) would require that the AMS automatically provide both a visual and audible signal in the belt entry at the point-feed regulator location, at sections affected by a potential fire, and the designated surface location. These signals would be activated when carbon monoxide concentrations reach the alert level at both point-feed intake monitoring sensors, or the alarm level at either point-feed intake monitoring sensor.

Under the proposal, visual and audible signals would have to be automatically activated at all three locations when concentrations of carbon monoxide at both of the sensors in the intake escapeway reach the alert level or when one sensor reaches the alarm level.

The signal at the regulator would provide notice to miners nearby that a fire may have occurred in the primary escapeway, and that the point-feed regulator could be (or has been) remotely closed. This information should assist miners in evacuating the mine.

The Panel did not specify in which escapeway the signal is to be located. Proposed 75.352(g) specifies that it would be located in the belt entry (alternate escapeway). Since the purpose of the signal is to warn of a potential fire in the primary escapeway and the point-feed regulator could be remotely closed from the surface, MSHA believes that it is more appropriate to locate the signal on the belt side of the regulator.

Section 75.371—Mine Ventilation Plan; Contents

Proposed § 75.371(jj) addresses Panel Recommendation 13 regarding the approval of air velocities in the belt entry. Although the Panel recommended minimum and maximum velocities in the belt entry, they recognized that in certain areas of underground coal mines it may be difficult to achieve these velocities. The Panel specifically noted that this may occur in the outby air split near a point-feed regulator, or where the air meets a partial obstruction like an airway constriction at an overcast or undercast. Where the recommended velocities cannot be achieved, the Panel recommended that the District Manager may approve exceptions in the mine ventilation plan, dependent upon specific mine conditions.

MSHA believes that requiring approval in the mine ventilation plan will allow the District Manager to fully evaluate the conditions in the mine including all aspects of the mine ventilation system. In making a determination on whether to approve requested velocities, the District Manager would evaluate the need for increasing fire detection sensitivity by adjusting alert and alarm levels for high velocities or reducing sensor spacing for low velocities.

Proposed § 75.371(mm) addresses Recommendation 10. The Panel recommended that MSHA perform regular, periodic reviews of the AMS records at mines using air from a belt entry to ventilate working sections to evaluate the number of occurrences of false alarms due to diesel exhaust. In those instances where such false alarms are excessive, the Panel recommended MSHA should require the use of existing diesel-discriminating sensors.

Based on Agency experience, diesel exhaust contains carbon monoxide, and can activate alerts and alarms. Under these circumstances, these signals may not be the result of a fire, but the result of diesel equipment operating in the area. An excessive number of these alert and alarm signals can cause miners to become complacent and routinely ignore them as false alarms. The benefit of diesel-discriminating sensors is that the frequency of signals caused by diesel engines is reduced.

Under the proposal, the District Manager could require the use of diesel-discriminating sensors in the approved mine ventilation plan. The proposal would require that the operator include in the ventilation plan the locations of any diesel-discriminating sensors. The District Manager approval of the use of these sensors would be based on mine conditions where diesel-powered equipment is used and excessive alert and alarm signals are caused by diesel exhaust. Since the proposal would be applicable to all mines using belt haulage, it deletes the reference to § 75.351(e)(5), which relates to mines using air from the belt entry to ventilate the working section.

MSHA does conduct periodic reviews of AMS records during regular inspections of the mine. MSHA re-emphasized procedures for inspecting an AMS in a recently revised Agency handbook which specifically provides inspectors with guidance on evaluating the frequency of diesel-related alert and alarm signals. (Carbon Monoxide and Atmospheric Monitoring Systems Inspection Procedures MSHA Handbook PH–08–V–2, February, 2008.)

Proposed § 75.371(nn) addresses Panel Recommendation 8. The Panel recommended discontinuing the use of point-type heat sensors, and using carbon monoxide sensors for all mines using belt haulage. Existing § 75.351(m) requires that the use and length of any time delays be approved by the District Manager in the mine ventilation plan for mines using air from the belt entry to ventilate the working section. Time delays may also be necessary in some mines that do not use air from the belt entry to ventilate working sections to aid in the reduction of false alarms. Proposed § 75.1103–4 would require the use of carbon monoxide sensors. Therefore, time delays for these mines must also be approved in the mine ventilation plan. Accordingly, the proposal deletes the reference to § 75.351(m) since it would apply to all mines using belt haulage.

Proposed § 75.371(yy) addresses Panel Recommendation 14 regarding the location of airlock doors installed between air courses. The Panel recommended that personnel doors along escapeways be structured to form an airlock when the force required to open a door, due to the pressure differential, exceeds 125 pounds.

Proposed § 75.333(c)(4) would require that an airlock be established where the air pressure differential between air courses creates a static force exceeding 125 pounds on closed personnel doors along escapeways. Proposed § 75.371(yy) would require the operator to submit the locations where airlock doors are installed between air courses in the ventilation plan for approval by the District Manager. This requirement would apply to all underground coal mines.

MSHA believes that requiring airlock doors to be approved in the mine ventilation plan will allow the District Manager to fully evaluate the conditions in the mine and all aspects of the mine ventilation system.

Proposed § 75.371(zz) addresses Panel Recommendation 14 regarding ventilating pressure within the primary escapeway. The Panel recommended that primary escapeways be ventilated with intake air preferably, and to the extent possible, the primary escapeway should have a higher pressure than the belt entry. The proposal would require that locations where the mine operator cannot maintain the pressure differential from the primary escapeway to the belt entry be included in the mine ventilation plan. This would allow the District Manager to evaluate specific mine conditions and require additional actions or precautions to be taken to protect the integrity of the primary escapeway, as appropriate.

Section 75.380—Escapeways Bituminous and Lignite Mines, and 75.381—Escapeways; Anthracite Mines

This proposal would amend paragraphs (d)(7)(v), and (vi) and (f)(1) and add paragraphs (d)(7)(vii), (viii) and (ix) to § 75.380. It also would amend similar language in paragraphs (c)(5)(v) and (vi), and (e) and add paragraphs (vii), (viii) and (ix) to § 75.381.

Proposed §§ 75.380(d)(7) and 75.381(c)(5) address Panel Recommendation 15. Proposed § 75.380 applies to escapeway requirements for bituminous and lignite mines, and § 75.381 applies to escapeway requirements for anthracite mines.

Although the Panel noted with approval recent MSHA standards on lifelines (71 FR 71430) it made two recommendations for improving requirements for lifelines. The first was to require tactile signals to identify impediments to travel, SCSR caches and personnel doors to adjacent escapeways. The second was to require nationwide standardization of all tactile signals.

The proposal includes both of these recommendations for the following reasons. The location of personnel doors may not be easily identifiable in smoke-filled entries, and signals would help miners move to alternate escapeways when the primary route is impeded or blocked against passage. Impediments to travel could cause delays and possible injury to escaping miners. Standardized signals will reduce the possibility of confusion in an emergency, and will provide an additional safety benefit to miners who transfer to different mines because they would not have to become familiar with new signal systems.

Existing §§ 75.380(d)(7)(v) and 75.381(c)(5)(v) require lifelines with directional indicators, signifying the

route of escape, placed at intervals not exceeding 100 feet. Proposed §§ 75.380(d)(7)(v) and 75.381(c)(5)(v) would require one cone to be used as the directional indicator. Like the existing rule, each cone would have to be installed so that the tapered section points inby.

Existing §§ 75.380(d)(7)(vi) and 75.381(c)(5)(vi) require tactile signals be attached to the lifeline to identify the location of SCSR caches, but do not specify the type of signal to be provided. Proposed §§ 75.380(d)(7)(vi) and 75.381(c)(5)(vi) require standardization of tactile signals. Consistent with the Panel's recommendation, the tactile feedback for SCSR storage locations would be six back-to-back directional cones.

Proposed §§ 75.380(d)(7)(vii) and 75.381(c)(5)(vii) are new provisions which would require standardized tactile signals to identify the location of personnel doors to adjacent crosscuts connecting escapeways. Consistent with the Panel's recommendation, the proposal would require that the tactile feedback for personnel doors be four back-to-back directional cones.

Proposed §§ 75.380(d)(7)(viii) and 75.381(c)(5)(viii) are new provisions which would require standardized tactile signals to identify the location of physical impediments in the escapeway. Consistent with the Panel's recommendation, the proposal would require that the tactile feedback for physical impediments would be two back-to-back directional cones. For example, when miners are approaching an overcast in an escapeway, two back-to-back directional cones would alert them to prepare to encounter a set of stairs to cross the overcast. Examples of other impediments include water sumps, track, conveyor belts, and regulators.

Under the proposal, MSHA defines back-to-back to mean that multiple cones are aligned so that they are in contact with one another, with all tapered sections pointing inby. As a miner's hand passes over these cones, the feedback for each of the recommended signals would be easily understood.

In another rulemaking, MSHA is proposing new requirements for refuge alternatives in underground coal mines. The Agency believes a distinctive tactile signal should also be attached to lifelines to identify the location of refuge alternatives. Because tactile signals on lifelines are addressed in this proposal, to provide a comprehensive and integrated approach for these requirements, the Agency is including this provision in this rulemaking.

Proposed §§ 75.380(d)(7)(ix) and 75.381(c)(5)(ix) would require lifelines to be marked to provide tactile feedback distinguishable from other markings to indicate the location of refuge alternatives. The tactile feedback for a refuge alternative would be a two-foot length of rigid spiraled coil (cork-screw style). This distinctive signal would improve safety by alerting miners to the location of refuge alternatives in areas of poor visibility. The proposal also would require another line to be attached from the lifeline to the refuge alternative. This line would be attached at the spiraled coil on the lifeline. This line would allow miners traveling in smoke to locate refuge alternatives along the escapeway, and return to the lifeline if refuge access is blocked.

Each of the signals in this proposal must be distinguishable from other markings. These signals, when integrated with escapeway drills, will help miners understand the differences in, and significance of, tactile signals and aid in evacuating the mine. The Agency specifically solicits comments on alternative tactile signal markings.

Proposed §§ 75.380(f) and 75.381(e) would require the primary escapeway to have a higher ventilation pressure than the belt entry. Under the proposal, the operator can submit an alternative in the mine ventilation plan to protect the integrity of the primary escapeway. Approval by the District Manager would be based on mine-specific conditions. This provision would apply to all mines using belt haulage.

In Recommendation 14, the Panel stated that primary escapeways should be designed, constructed, and maintained in accordance with the provisions of existing § 75.333 (b)–(d) to minimize the air leakage. The Panel also recommended that primary escapeways be ventilated with intake air preferably and, to the extent possible, the primary escapeway should have a higher pressure than the belt entry. Based on Agency experience, MSHA recognizes the need to maintain the pressure differential from the primary escapeway to the belt air course. A higher pressure in the primary escapeway would assure that air leakage would move from this escapeway to the belt entry. In case of a fire in the belt entry, the primary escapeway would not become contaminated.

The proposal would require the pressure differential to be maintained. However, under the proposal, the operator could submit an alternative in the mine ventilation plan to protect the integrity of the primary escapeway. MSHA agrees with the Panel's recognition that it is difficult to maintain the pressure differential from the intake to the belt entry at all times. The different resistances to air flow within the air courses will cause changes to the pressure differentials between the adjacent entries separated by permanent ventilation controls. At some locations, especially near working sections, pressure differentials will often reverse between the two air courses. MSHA experience is that these reversals are small in magnitude. However, even low pressure differentials can allow significant leakage where ventilation controls are not properly maintained.

There are two components to air leakage. First, the flow from one entry to the other is caused by the pressure differential. Air will tend to flow from high to low pressure. The other component is the resistance to flow. A high resistance will not allow high air flow rates even when the pressure differentials are considerable. A key to limiting air leakage through a ventilation control is to increase the resistance by sealing the control and its perimeter. Historically, MSHA has identified damaged and improperly installed doors as sources of high air leakage. Openings in stoppings to provide routing of air and water lines, electrical conductors and other conduits must also be sealed to minimize air leakage. When these conduits are removed, ventilation controls must be properly repaired.

The Agency does not expect mine operators to use check curtains or other temporary ventilation controls such as parachute stoppings to increase the resistance in the primary escapeway in order to pressurize the air course during normal mining. The use of such controls on a regular basis diminishes the efficiency of the ventilation system.

Subpart L—Fire Protection

75.1103–4—Automatic Fire Sensor and Warning Device Systems; Installation; Minimum Requirements

Proposed § 75.1103–4 addresses Panel Recommendation 8. The Panel recommended that MSHA initiate rulemaking to discontinue the use of point-type heat sensors (PTHS) for early-warning and detection of conveyor belt fires in all underground coal mines.

In making its recommendation, the Panel examined research comparing the fire detection capabilities of carbon monoxide sensors and PTHS. The Panel concluded that there are inherent inadequacies with PTHS for reliable early-warning belt fire detection. According to the Panel's report, carbon monoxide sensors can detect fires at an

earlier stage of fire development than PTHS. The Panel found the time it took for PTHS to alarm during a fire was much longer than the time it took carbon monoxide sensors to alarm. The Panel also found that the location and spacing of PTHS relative to fire location could result in fires not being detected in a timely manner.

Research and accident investigation reports on fires have consistently shown that carbon monoxide sensors are superior to PTHS. MSHA's accident investigation report of the Dilworth mine fire, (MSHA,1992 Greene County, PA) revealed that carbon monoxide sensors were superior to PTHS, where both sensors were installed in the same belt entry. The ignition source of the fire was located nearly midway between two heat sensors spaced at 50 feet. The fire was detected by the carbon monoxide sensor located 1,400 feet downwind of the fire. The fire was extinguished by miners without injury and with only little damage in the belt entry. The heat sensors installed along the belt did not detect the fire.

Proposed § 75.1103–4 would require the use of carbon monoxide sensors for fire detection along belt conveyors in all underground coal mines. In addition, the proposal includes installation, maintenance, operating and training requirements.

Proposed § 75.1103–4(a) would require the use of an early-warning fire detection system in all underground coal mines to identify fires along the entire belt conveyor system. The proposal would remove the requirement to identify the belt flight on which the system detects fire. When PTHS are used for fire detection, they are designed to identify the belt flight on which the fire occurs. Carbon monoxide sensors provide a more precise identification of the location, to within 1,000 feet.

For example, suppose a belt flight length of 4,800 feet is being monitored for a fire. If a PTHS indicated a fire, the system would identify the fire to be within an area encompassing 4,800 feet of beltline. Using carbon monoxide sensors, the system would identify the fire as being upwind of the sensor location and within 1,000 feet of the sensor. This will narrow the search area for determining the source of the alarm signal, and aid in extinguishing the fire in a more timely, effective manner. The proposed requirement for carbon monoxide sensors in all mines results in earlier identification of the location of a fire and is a significant improvement in fire detection.

Proposed § 75.1103–4(a)(1) would require the use of carbon monoxide sensors to be installed at specific locations along belt conveyors. These locations maximize the potential of early warning of a fire in the belt entry, and are based on Agency experience with the use of carbon monoxide sensors in underground coal mines.

Proposed § 75.1103–4(a)(1)(i) would require a sensor to be placed not more than 100 feet downwind of each belt drive unit, each tailpiece transfer point, and each belt take-up. Under the proposal, if the belt drive, tailpiece, and/or take-up are installed together in the same air course, they may be monitored with one sensor located not more than 100 feet downwind of the last component. However, if the distance between the belt drive unit, tailpiece transfer point, and belt take-up units is more than 100 feet, an additional sensor would be required to monitor each of these belt conveyor components.

This requirement is intended to provide early fire detection in the belt drive area, a potential fire source due to dust accumulations and electrical equipment.

Proposed § 75.1103–4(a)(1)(ii) would require a sensor to be installed in the belt entry not more than 100 feet downwind of each section loading point. Under the proposal, this sensor would monitor the section loading point, and provide miners on the section with warning of fire in the belt entry.

Proposed § 75.1103–4(a)(1)(iii) would require that sensors be located along the belt entry so that the spacing between sensors does not exceed 1,000 feet. Where air velocities are less than 50 feet per minute, spacing must not exceed 350 feet. The proposed 350-foot spacing has been shown in NIOSH research to provide effective early warning of a fire in the belt entry when the air velocity is 50 feet per minute or less. The combination of sensor spacing and air velocity is required to assure that carbon monoxide produced by a belt fire is transported to the sensor to provide for an effective warning.

Proposed § 75.1103–4(a)(1)(iv) would require sensors to be located upwind, a distance of no greater than 50 feet from the point where the belt air course is combined with another air course or splits into multiple air courses. This would require placing a carbon monoxide sensor in the belt entry just before the air stream splits to ventilate another belt entry. Also, if two belt air splits join, this provision would require a sensor in each air split immediately prior to joining. These sensors would provide a more precise location of the air split where the fire originated.

Proposed § 75.1103–4(a)(2) would remove the reference to point-type heat sensors and replace it with carbon monoxide sensors. In proposed § 75.1103–4(a)(1), MSHA would no longer accept the use of PTHS for fire detection along belt conveyors.

Proposed § 75.1103–4(a)(3) would remove the 125-foot spacing requirement for point-type heat sensors and replace it with conforming requirements for carbon monoxide sensor spacing. Because point-type heat sensors would no longer be permitted, spacing for these devices would no longer be applicable. Carbon monoxide sensors would be required to be added when the distance from the section loading point to the first outby sensor reaches 1,000 feet when air velocity is at least 50 feet per minute, and 350 feet if the velocity is less than 50 feet per minute.

Proposed § 75.1103–4(b) would require that sensors be installed near the center in the upper third of the entry, in a location that does not expose personnel working on the fire detection system to unsafe conditions. The proposal provides that sensors must not be located in abnormally high areas or in other locations where air flow patterns do not permit products of combustion to be carried to the sensors.

MSHA based this proposed requirement on the results of NIOSH research and Agency experience with carbon monoxide sensors. This data has shown that during both smoldering and open combustion fires, the products of combustion stratify, leaving higher concentrations of smoke and carbon monoxide near the mine roof. Based on this, NIOSH recommended installing sensors near the roof of the entry to take advantage of stratification. MSHA's experience is that when operators do not properly position sensors, fire detection can be hindered or delayed. For example, sensors that are positioned behind equipment or other obstructions may not be exposed to the products of combustion contained in the air stream, thereby impairing their ability to provide for effective fire detection.

This provision requires sensors to be installed near the center, and in the upper third, of the belt entry. In most cases, the safest location for installing a sensor is from a roof bolt plate or belt hanger located beside the belt along the walkway. This would prevent miners from being exposed to hazards such as a moving belt when calibrating or examining sensors.

Section 75.1103–5—Automatic Fire Warning Devices; Actions and Response

Proposed § 75.1103–5, which has been retitled, adds requirements for initiating warning signals and responses for automating fire warning devices. It provides conforming changes to § 75.1103–4.

Proposed § 75.1103–5(a) requires that when the carbon monoxide level reaches 10 parts per million above the ambient level at any sensor location, an effective warning signal must be provided at specific locations. Consistent with MSHA's existing standards for a warning signal to be effective, it must be seen or heard.

PTHS provide warning based on elevated temperatures, while carbon monoxide sensors provide warning based on elevated levels of carbon monoxide. The proposed requirement of carbon monoxide sensors represents a significant improvement in providing early warning of a fire in the belt entry over the use of point-type heat sensors. MSHA experience shows that an action level at 10 parts per million above the ambient level provides an effective warning of a fire and allows miners the opportunity to safely evacuate the affected area. The Agency is soliciting comments on this approach.

Proposed § 75.1103–5(a) would require warning signals to be provided at both underground work locations and on the surface. The existing standard requires that signals be provided at either underground work locations where miners may be endangered, or at a manned location.

Proposed § 75.1103–5(a)(1) would require effective warning signals to be provided to working sections and other work locations where miners may be endangered from a fire in the belt entry. Locations where miners may be endangered would include working sections, areas where mechanized mining equipment is being installed or removed, permanent work locations, and other locations specified in the Mine Emergency Evacuation and Firefighting Program of Instruction required by § 75.1502.

Proposed § 75.1103–5(a)(2) retains the existing requirement that the warning signal be provided to a manned location. The proposal would require that the manned location be on the surface. MSHA believes requiring that the warning be provided to a surface location will facilitate timely and effective evacuation of miners and improve communication with mine management. This will facilitate more effective decision-making in a mine emergency. The proposed requirement that the warning be provided on the surface would also allow for required communication with local emergency response personnel, appropriate state agencies, and MSHA. This is consistent with the Emergency Response Plan requirement in Section 2 of the MINER Act for local communication.

Proposed § 75.1103–5(a)(2)(i) retains the requirement for having a telephone or equivalent communication with all miners who may be endangered.

Proposed § 75.1103–5(a)(2)(ii) is new, and requires a mine map or schematic that shows the location of sensors and the intended air flow direction at these locations to be posted at the manned surface location. This new provision is necessary to assure that the location of a potential fire can be identified in a timely manner. With the use of carbon monoxide sensors, a fire location is identified by specific sensors. The sensor locations are most easily identifiable by using a map or schematic. The air directions are needed to facilitate fire fighting activities and evacuation in the event of a fire, explosion or other emergency.

Proposed § 75.1103–5(a)(3) is derived from the existing rule, and has not been changed, except for the numbering.

Proposed §§ 75.1103–5(d) through (h) are new provisions which would specify responses required to signals from the automatic fire warning devices. This proposal is consistent with requirements for responses to AMS signals in existing § 75.352. These provisions would apply to all mines using belt haulage.

Proposed §§ 75.1103–5(d) and (e) specify requirements for responses to malfunction and warning signals. When a malfunction or warning signal is received at the surface location, § 75.1103–5(d) would require that the sensor must be identified and appropriate personnel be immediately notified. Depending upon the circumstances at the mine, appropriate personnel may include the mine foreman, mine electrician, or other persons responsible for maintaining the sensors. Proposed § 75.1103–5(e) would require appropriate personnel to immediately initiate an investigation to determine the cause of the malfunction or warning signal and take necessary corrective action. These proposed provisions require immediate corrective actions to assure that the appropriate responses are taken in case of an emergency.

Proposed § 75.1103–5(f) would require specific procedures be followed in case of a warning signal. Proposed § 75.1103–5(f)(1) would require appropriate personnel to notify miners in affected working sections, in affected areas where mechanized mining equipment is being installed or removed, and at other locations specified in the § 75.1502 approved mine emergency evacuation and firefighting program of instruction when a warning signal is received. This notification is in addition to the automatic signal required in proposed § 75.1103–5(a)(1). Proposed § 75.1103–5(f)(2) would require all miners in the affected areas to be immediately withdrawn to a safe location identified in the mine emergency evacuation and firefighting program of instruction upon notification of a warning signal. Under the proposal, miners who are assigned emergency response duties do not have to be withdrawn.

The actions specified in §§ 75.1103–5(f)(1) and (f)(2) must be taken, unless the operator determines the source of the warning does not present a hazard to miners. For example, if the operator knows that the warning signal is caused by cutting and welding or calibration of a sensor, actions would not have to be taken. MSHA believes these proposed actions are needed to assure that the protective early-warning capabilities of the carbon monoxide sensor result in timely action and rapid evacuation in case of emergency.

Proposed § 75.1103–5(g) would require that, if the warning signal will be activated during calibration of sensors, personnel manning the surface location must be notified prior to and upon completion of calibration. The notification is also required for miners underground in affected areas. This proposal is necessary so that miners know that a warning signal is not a fire. This proposal would apply only at mines where calibration of sensors would cause activation of warning signals; many sensors have a calibration mode, where warning signals are blocked during calibration.

Proposed § 75.1103–5(h) would require that if any fire detection component becomes inoperative, immediate action must be taken to repair the component. This proposal would assure that repairs are made in a timely manner so that the fire detection system will remain capable of warning miners of a fire in the belt entry.

While repairs are being made, the belt may continue to operate if the requirements in proposed §§ 75.1103–5(h)(1) through (h)(6) are met. Otherwise, the belt must be taken out of service until necessary repairs are made.

Proposed §§ 75.1103–5(h)(1) through (h)(3) would require trained persons to continuously monitor or patrol the area of the mine where inoperable sensors

have been identified. When only one sensor is affected, § 75.1103–5(h)(1) would permit continued belt operation when a trained person is stationed at the sensor and monitors the air for carbon monoxide using a hand-held detector. If two or more adjacent sensors are affected, § 75.1103–5(h)(2) would permit continued belt operation if the area monitored by these sensors is patrolled so the area is traveled each hour in its entirety. As an alternative under the proposal, the mine operator could have a trained person stationed at each inoperative sensor location. Proposed § 75.1103–5(h)(3) would require the same monitoring if the entire fire detection system becomes inoperative.

Proposed § 75.1103–5(h)(4) would require the trained persons monitoring inoperable sensors to have two-way voice communication at intervals not to exceed 2,000 feet with the surface. The proposal would require that carbon monoxide levels be reported to the surface at intervals not to exceed one hour.

Proposed § 75.1103–5(h)(5) would require that trained persons monitoring under this section must immediately report to the surface when any concentration of carbon monoxide reaches 10 parts per million above the established ambient level, unless the operator knows that the source of the carbon monoxide does not present a hazard to miners. As stated previously, unless the carbon monoxide does not present a hazard to miners, the mine operator would be required to withdraw affected miners to the location specified in the approved Mine Emergency Evacuation and Firefighting Program of Instruction.

Proposed § 75.1103–5(h)(6) would require that handheld detectors used to monitor the belt entry under this section have a detection level equivalent to that of the carbon monoxide sensors.

Section 75.1103–6—Automatic Fire Sensors; Actuation of Fire Suppression Systems

Proposed § 75.1103–6 would provide that point-type heat sensors may be used to activate fire suppression systems. Although the Panel recommended discontinuing the use of point-type heat sensors for fire detection, it recognized a benefit in allowing them to be used for activating fire suppression systems. Consistent with the Panel's recommendation, under the proposal point-type heat sensors may continue to be used to actuate deluge-type water systems, foam generator systems, multipurpose dry-powder systems, or other equivalent automatic fire suppression systems.

Section 75.1103–8—Automatic Fire Sensor and Warning Device Systems; Inspection and Test Requirements

Existing § 75.1103–8 requires that the mine operator conduct weekly inspection and annual functional testing of the fire detection system, as well as make and retain records of the inspection and testing. These requirements were developed for point-type heat sensors, and do not provide adequate protection for carbon monoxide sensors.

MSHA experience has shown an examination of the carbon monoxide sensors at least once each shift when the belts are operated as part of a coal production shift is necessary to assure the sensors will operate and respond as required in the event of a fire. The mine environment in the belt entry can be harsh with potential roof falls, rock dusting, water sprays and coal dust. All of these physical factors can cause the carbon monoxide sensors to be compromised. Because sensors can be vulnerable to these factors, it is important that the mine operator examine the sensors each shift.

MSHA experience has shown annual testing of warning signals is not sufficient to assure these critical components will operate properly in time of emergency. Automatic fire warning system components commonly use batteries to activate warning signals. Annual functional testing may not identify batteries that are no longer capable of powering the warning signals. Proper weekly functional testing has been shown to provide assurance that properly installed batteries will activate warning signals.

Proposed § 75.1103–8(a) would require automatic fire sensor and warning device systems to be examined at least once each shift when belts are operated as part of a production shift, and a functional test of the warning signals to be made at least once every seven days. Increased frequency of examinations and functional tests of the system would better assure the system effectively maintains its fire warning capability so that it could provide adequate warning to miners of a fire. The increased examinations would also alert the mine operator to any damaged or missing components. Like the existing standard, the proposal would require that inspection and maintenance of these systems be completed by a qualified person.

Under the proposal, the functional test must be completed at intervals not to exceed 7 days. MSHA expects the functional test to verify that warning signals are effective at all locations where these signals are provided. MSHA would expect that a functional test would include application of carbon monoxide gas to the sensors necessary to activate each warning signal. These functional tests are needed to assure that the system retains its fire warning capability so that it will provide the proper warning signal in case of emergency. The Agency believes that the proposed examination requirements can be integrated into required preshift and on-shift examinations under existing §§ 75.360 and 75.362. The examinations would identify any problems with sensors such as improper installation, damaged sensors or cables, and missing components.

These examination frequencies are consistent with the Agency's current examination procedures for carbon monoxide sensors for all mines using these sensors in lieu of point-type heat sensors. These examinations are currently being performed at these mines, and are included in the mine ventilation plan or a granted petition for modification.

Like the existing rule, proposed § 75.1103–8(b) requires that the mine operator maintain a record of the functional tests. The proposal would also require that the mine operator keep a record of the functional tests for one year. Maintaining records for one year is consistent with other recordkeeping requirements, and would indicate to MSHA how warning signals operate over the course of a year. The proposal would delete the existing requirement that a record card of the weekly inspection be kept at each belt drive as this would no longer be necessary.

Proposed § 75.1103–8(c) would require that carbon monoxide sensors be calibrated at intervals not to exceed 31 days according to manufacturers' instructions. MSHA experience has shown this interval to be an appropriate time period to assure that carbon monoxide sensors respond effectively and reliably in the event of a fire. In addition, the proposal would require a record of sensor calibrations to be kept for a period of one year. The record will provide the mine operator with information to make necessary repairs and maintain the system, and will allow MSHA to verify that these corrective actions were taken in a timely manner.

Subpart R—Miscellaneous

Section 75.1731—Maintenance of Belt Conveyors and Belt Conveyor Entries

Proposed § 75.1731 is new and addresses Panel Recommendations 1, 5, 6 and 14 regarding belt entry and conveyor belt maintenance. It would

apply to all underground coal mines using belt haulage.

In their report, the Panel recommended that MSHA rigorously enforce existing standards on underground conveyor belt maintenance and fire protection, and improve inspection procedures. They also stated that MSHA should focus on required examinations of the belt lines by mine examiners to assure each belt is kept in good working order. The Panel identified the following areas for increased attention by belt examiners: Belts rubbing stands; damaged rollers; inadequate rock dusting; and accumulations of materials. In its enforcement of conveyor belt examinations, MSHA has traditionally focused on these and other hazards. Proposed § 75.1731 addresses areas associated with the belt entry and would require that the operator pay special attention to them to assure proper belt maintenance.

In its report, the Panel cited MSHA's investigation into the Aracoma Alma Mine No. 1 (Aracoma) belt fire as evidence of inadequate belt maintenance (MSHA Fatal Accident Report, Logan County, WV, 2007). MSHA identified as root causes of the fire deficiencies in belt maintenance and examinations. Prevention of belt fires is a critical element in improving miners' safety, and proper maintenance and examinations will reduce the likelihood of fires.

Proposed § 75.1731 would require: (a) Damaged rollers and other malfunctioning belt conveyor components to be immediately repaired or replaced; and (b) conveyor belts to be properly aligned to prevent the moving belt from rubbing against the support structure or other components. In both instances, improper belt examinations could lead to uncorrected hazards. This could result in frictional heating of combustibles in the belt entry which could cause a fire. The proposed provisions would require mine operators to assure that belt examiners identify and correct hazardous conditions in the conveyor belt entry to improve safety of miners.

Existing § 75.1725(a) contains inspection and maintenance requirements applicable to mobile and stationary machinery and equipment, including conveyor belts. Based on its experience, MSHA does not believe that the existing standard appropriately addresses the Panel's concerns regarding potential hazards resulting from inadequate examinations by belt examiners and inadequate maintenance. These hazards are caused by misalignment of the belt, damaged rollers and other belt components, and accumulations of non-combustibles. Proposed §§ 75.1731(a) and (b) specifically address these hazards.

Existing § 75.400 addresses accumulation of combustible materials, but it does not address hazards resulting from accumulation of noncombustible materials in the belt entry. Noncombustible materials include rock, trash, and discarded conveyor belt parts. These materials may become potential frictional ignition sources for combustible materials, resulting in a belt fire, or may pose tripping hazards in the belt entry. Proposed § 75.1731(c) would prohibit the accumulation of such noncombustible materials in the belt conveyor entry. The Agency does not intend that this provision apply to rock dust applied in the belt entry which is used to mitigate the accumulation of float coal dust.

Proposed § 75.1731(d) would require that splicing of any approved conveyor belt must maintain flame-resistant properties of the belt. Some belts can be a significant source of fuel for a mine fire. To protect miners, it is essential that any splices in the belt maintain the fire resistant properties of the belt so that it will not easily ignite or be a source of fuel for a fire.

MSHA recognizes the need to address splicing of the belt so that the materials and processes used in splicing do not compromise the flame resistant properties of the belt. Because splicing is a belt maintenance issue, the provision is included in this section.

MSHA requests comments on the following suggested effective and compliance dates for the final rule:

Effective dates: (following publication date of the final rule)—Compliance dates: Each mine operator shall comply with the following sections by the dates listed below.

1. § 75.156 AMS operator qualification—2 months.
2. § 46.27 Task Training Plan for AMS operators—2 months.
3. § 75.333(c)(4) Airlocks—3 months.
4. § 75.350(a)(2) Minimum Velocity—12 months.
5. § 75.350(b) Operator Submission of Revised Ventilation Plan for Approval for Use of Air from the Belt Entry—3 months.
6. § 75.351(e)(2) Smoke Sensors—12 months after Approval.
7. §§ 75.380 and 75.381 Lifeline Signals—6 months.
8. §§ 75.380 and 75.381 Primary Escapeway—6 months.
9. §§ 75.1103–4, 5, 8 Replacing PTHS—12 months.
10. § 75.1731 Maintenance of belt conveyors and belt conveyor entries—2 months.

IV. Executive Order 12866

Executive Order (E.O.) 12866 requires that regulatory agencies assess both the costs and benefits of regulations. To comply with E.O. 12866, MSHA has prepared a Preliminary Regulatory Economic Analysis (PREA) for this proposed rule. The PREA contains supporting data and explanation for the summary economic materials presented in this preamble, including data on the mining industry, costs and benefits, feasibility, small business impacts, and paperwork. The PREA is located on MSHA's Web site at *http://www.msha.gov/REGSINFO.HTM.* A copy of the PREA can be obtained from MSHA's Office of Standards, Regulations and Variances at the address in the **ADDRESSES** section of the preamble. MSHA requests comments on all the estimates of costs and benefits in this preamble and in the PREA, and on the data and assumptions the Agency used to develop estimates.

Under E.O. 12866, a significant regulatory action is one meeting any of a number of specified conditions, including the following: Having an annual effect on the economy of $100 million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. Based on the PREA, MSHA has determined that this proposed rule would not have an annual effect of $100 million or more on the economy and that, therefore, it is not an economically significant regulatory action. MSHA has concluded that the proposed rule is otherwise significant because it raises novel legal or policy issues.

A. Population at Risk

The proposed rule would apply to all underground coal mines in the United States. Based on the most recent MSHA data, there were 624 underground coal mines, employing 42,207 miners, operating in the U.S. in 2007.

B. Benefits

MSHA has qualitatively evaluated the potential safety benefits of the provisions of this proposed rule on improved flame-resistant conveyor belts, fire prevention and detection, and approval of the use of air from the belt entry to ventilate the working sections in underground coal mines. The proposal would implement Section 11

of the MINER Act and the recommendations of the Technical Study Panel (Panel) on the Utilization of Belt Air and The Composition and Fire Retardant Properties of Belt Materials in Underground Coal Mining.

The proposed provisions on improved flame-resistant conveyor belts would reduce belt entry fires in underground coal mines and would prevent related fatalities and injuries. From 1980 to 2007, there were 65 reportable belt entry fires. Almost all involved the conveyor belt itself. These fires caused over two dozen injuries and three deaths—one in 1986 at the Florence No. 1 Mine, and two in 2006 at the Alma No. 1 Mine. The Technical Study Panel noted that the number of belt fires had decreased over the past decade, but that the rate (i.e., number of fires per thousand mines) has remained constant. The Panel also noted that during this same period, although underground coal production increased so that the number of belt fires per 100 million tons decreased, there was high variability from year to year. These proposed provisions would prevent conveyor belt fires and, in turn, reduce accidents, injuries, and deaths caused by conveyor belt fires.

The proposed provisions on fire prevention and detection and approval of the use of air from the belt entry in underground coal mines would improve miner safety. The provision addressing maintenance of the belt conveyor and belt conveyor entry will improve safety to miners by requiring specific associated hazards to be corrected when found. These hazards, known to be sources of belt fire ignitions, include damaged and missing rollers and belt misalignment. For example, the MSHA Investigation Report of the Aracoma Alma Mine No.1 fire determined that the fire occurred as a result of the frictional heating due to a misaligned belt. The provision would also require that damaged components removed from service and other non-combustibles be removed from the belt entry. These non-combustibles are tripping hazards and potential sources of frictional heating that could lead to fire.

The proposed requirement to replace point-type heat sensors with carbon monoxide sensors for fire detection along belt conveyors in all underground coal mines would enhance miner safety because carbon monoxide sensors provide earlier fire detection. Earlier fire detection allows miners to better address the problem and/or evacuate the area. MSHA's research and accident investigation reports indicate that carbon monoxide sensors are superior to point-type heat sensors. For example, in the 1992 Dilworth Mine fire, the point-type heat sensors were no more than 27 feet away, but the carbon monoxide sensor that actually detected the fire was 1,400 feet downwind of the fire. Based on MSHA's research and experience, replacing point-type heat sensors with carbon monoxide sensors is an improvement in early fire warning detection.

Inadequate Atmospheric Monitoring System (AMS) operator training was identified as a contributing factor in the two fatalities in the Aracoma fire. Accident investigators found all miners assigned the duties of an AMS operator at this mine needed additional training to properly respond to alert, alarm, and malfunction signals generated by the AMS. The proposed provisions for AMS operator qualification and training would improve safety for miners by assuring that AMS operators will have the knowledge to respond properly to AMS signals. The qualification of miners as AMS operators would assure that MSHA has oversight in the development and approval of the task training, and annual retraining requirements would assure that AMS operators retain knowledge and training needed to perform specific duties and responsibilities. Specified training requirements would also assure that AMS operators are familiar with underground mining systems such as coal haulage, transportation, ventilation, and escape facilities.

Methane ignitions and explosions in the face areas can cause serious injuries or death to miners. The proposed provision requiring a reduced concentration of methane in the belt entry would improve safety for miners working on sections where air from the belt entry is used to ventilate the section. This reduced methane standard would provide a greater methane dilution capacity in face areas, reducing the risk of a methane ignition or explosion at the face.

The proposed provision requiring a higher ventilating pressure in the primary escapeway than the belt entry would assure that air leakage moves from this escapeway to the belt entry. If a fire were to occur in the belt entry, the primary escapeway would not become contaminated with smoke and carbon monoxide, thus maintaining the integrity of the escapeway and providing a safe means of egress for miners.

The proposed provision requiring lifelines to be marked with standardized tactile signals would aid miners evacuating the mine where visibility is obscured by smoke. New standardized signals would be required to: Identify impediments to travel within the escapeway; identify the location of personnel doors in adjacent crosscuts connected to adjacent escapeways; and identify the location of refuge alternatives. Existing signals for direction of travel and SCSR storage locations would also be standardized. Standardization of these signals would allow for consistent understanding of the signals so that miners who transfer between mines will not need to learn new signal systems, and generally would reduce the possibility of confusion, delay, or injury in an emergency.

C. Compliance Costs [1]

MSHA estimated the first year costs and the yearly costs of the proposed rule. MSHA estimated costs to mine operators on the following proposed provisions: Improved flame-resistant conveyor belt; installation and maintenance of carbon monoxide (CO) sensors in all underground coal mines; improved maintenance of conveyor belts and conveyor belt entries; atmospheric monitoring system (AMS) operator duties; standardized lifeline signals; and other provisions such as installation of airlocks along escapeways on personnel doors, an extra sensor and alarm unit on point feeds in mines using belt air, and a means to remotely close point feeds in mines using belt air where belt entry is an alternate escapeway.

MSHA estimates that the total first year costs would be approximately $66 million. Of the $66 million, MSHA estimates approximately $44 million in costs for the improved flame-resistant belts, and approximately $22 million in costs for the remaining provisions.

MSHA estimates that the proposed rule would result in total yearly costs of approximately $52 million. Of this amount, MSHA attributed approximately $90,000 in yearly costs to manufacturers of conveyor belts. Disaggregated by mine size, yearly costs would be approximately $5 million for mine operators with fewer than 20 employees. Of the 223 mines in this size category, MSHA estimates the cost would be approximately $21,000 per mine. Yearly costs would be approximately $43 million for mine operators with 20–500 employees. Of the 391 mines in this size category, MSHA estimates the cost would be approximately $110,000 per mine. Yearly costs would be approximately $4

[1] All costs have been rounded, therefore, some total costs may deviate slightly from the sum of individual costs.

million for mine operators with more than 500 employees. Of the 10 mines in this size category, MSHA estimates the costs would be approximately $410,000 per mine.

MSHA attributed the $52 million in yearly costs of the proposed provisions to mine operators as follows: Approximately $40.4 million for improved flame-resistant conveyor belt; approximately $6.3 million for installation and maintenance of CO sensors in all underground coal mines; approximately $3.5 million for improved maintenance of conveyor belts and conveyor belt entries; approximately $1 million for Atmospheric Monitoring System (AMS) operator duties; approximately $340,000 for standardized lifeline signals; and approximately $70,000 for other provisions mentioned above.

MSHA estimates the yearly cost for smoke sensors to be approximately $460,000; however, this cost is not included in the yearly costs of this rule because smoke sensors are not commercially available for use in underground coal mines.

Table 1 is a summary of the approximate yearly costs of the proposed rule by mine size and proposed provision. The Agency solicits comments on the estimated costs of these provisions.

TABLE 1

Proposed provisions	1–19 employees	20–500 employees	501+ employees	Total
Improved Flame Resistant Belt	$3.3 million	$33.4 million	$3.8 million	$40.4 million.
Improved Flame Resistant Belt (Manufacturers)	n/a	n/a	n/a	$90,000.
CO Sensors	$670,000	$5.5 million	$180,000	$6.3 million.
Maintenance of belts and belt entries	$750,000	$2.6 million	$130,000	$3.5 million.
AMS Operator duties	$57,000	$960,000	$29,000	$1 million.
Lifeline signals	$39,000	$290,000	$15,000	$340,000.
Other provisions	$1,300	$63,000	$3,700	$68,000.
Total	$5 million	$43 million	$4 million	$52 million.

V. Feasibility

MSHA has concluded that the requirements of the proposed rule would be both technologically and economically feasible.

A. Technological Feasibility

The proposed rule does not involve activities on the frontiers of scientific knowledge. Aside from proposed § 75.351(e)(2), compliance with the provisions of the proposed rule is technologically feasible because the materials, equipment, and methods for implementing these requirements currently exist.

Proposed section 75.351(e)(2) would require mines that use belt air to ventilate working sections to install smoke sensors one year after approval for use in underground coal mines. Smoke sensors are not technologically feasible because these sensors are not commercially available for use in underground coal mining. MSHA will notify the public when smoke sensors become available and are approved for use in underground coal mining.

B. Economic Feasibility

The yearly compliance cost of the proposed rule would be approximately $52 million for underground coal mines, which is 0.37 percent of annual revenue of $14.1 billion for all underground coal mines. MSHA concludes that the proposed rule would be economically feasible for these mines because the total yearly compliance cost is below one percent of the estimated annual revenue for all underground coal mines.

VI. Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act

Under the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), MSHA has analyzed the impact of the proposed rule on small entities. Based on that analysis, MSHA has notified the Chief Counsel for Advocacy, Small Business Administration (SBA), and made the certification under the RFA at 5 U.S.C. 605(b) that the proposed rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is in the PREA and summarized below.

A. Definition of a Small Mine.

Under the RFA, in analyzing the impact of the proposed rule on small entities, MSHA must use the SBA definition for a small entity, or after consultation with the SBA Office of Advocacy, establish an alternative definition for the mining industry by publishing that definition in the **Federal Register** for notice and comment. MSHA has not established an alternative definition and is required to use the SBA definition. The SBA defines a small entity in the mining industry as an establishment with 500 or fewer employees.

MSHA has also examined the impact of this proposed rule on underground coal mines with fewer than 20 employees, which MSHA has traditionally referred to as ''small mines.'' These small mines differ from larger mines not only in the number of employees, but also in economies of scale in material produced, in the type and amount of production equipment, and in supply inventory. Therefore, the cost of complying with MSHA's proposed rule and the impact of the proposed rule on small mines will also be different.

This analysis complies with the legal requirements of the RFA for an analysis of the impact on ''small entities'' while continuing MSHA's traditional concern for ''small mines.''

B. Factual Basis for Certification

MSHA initially evaluates the impact on small entities by comparing the estimated compliance cost of a rule for small entities in the sector affected by the rule to the estimated revenue of the affected sector. When the estimated compliance cost is less than one percent of the estimated revenue, the Agency believes it is generally appropriate to conclude that the rule would not have a significant economic impact on a substantial number of small entities. When the estimated compliance cost exceeds one percent of revenue, MSHA investigates whether further analysis is required.

Total underground coal production in 2007 was approximately 278 million tons for mines with 500 or fewer employees. Using the 2007 price of underground coal of $40.37 per ton, MSHA estimates that underground coal revenue was approximately $11.2 billion for mines with 500 or fewer employees. The yearly cost of the proposed rule for mines with 500 or fewer employees is estimated to be approximately $47.6 million, or

approximately $77,000 per mine. This is equal to approximately 0.42 percent of annual revenue. Since the yearly cost of the proposed rule is less than one percent of annual revenues for small underground coal mines, as defined by SBA, MSHA has certified that the proposed rule would not have a significant impact on a substantial number of small mining entities, as defined by SBA. However, MSHA has provided, in the PREA accompanying this rule, a complete analysis of the cost impact on this category of mines.

Total underground coal production in 2007 was approximately 7.7 million tons for mines with fewer than 20 employees. Using the 2007 price of underground coal of $40.37 per ton, MSHA estimates that underground coal revenue was approximately $310.2 million for mines with fewer than 20 employees. The yearly cost of the proposed rule for mines with fewer than 20 employees is estimated to be $4.8 million, or approximately $22,000 per mine. This is equal to approximately 1.54 percent of annual revenue.

The Agency has provided, in the PREA accompanying this rule, a complete analysis of the cost impact on this category of mines. MSHA estimates that some mines might experience costs somewhat higher than the average per mine in its size category while others might experience lower costs. Even though the analysis reflects a range of impacts for different mine sizes, from 0.42 to 1.54 percent of annual revenue, the Agency concludes that this is not a significant economic impact on a substantial number of small mines.

VII. Paperwork Reduction Act

A. Summary

This proposed rule contains information collection requirements that would affect requirements in existing paperwork packages with OMB Control Numbers 1219–0009, 1219–0054, 1219–0066, 1219–0073, and 1219–0088. The proposed provision on AMS operator training would modify ICR 1219–0009. Proposed provisions for fire protection would modify ICR 1219–0054. Proposed provisions that affect the information collected for approval of flame-resistant conveyor belts would modify ICR 1219–0066. Proposed provisions to amend the mine map would modify ICR 1219–0073. Proposed provisions that affect the information contained in the ventilation plan for underground coal mines would modify ICR 1219–0088.

In the first year that the rule is in effect, mine operators would incur 3,319 burden hours with related costs of $239,331. Annually, starting in the second year that the rule is in effect, mine operators would incur 2,350 burden hours with related costs of $183,246. In addition, conveyor belt manufacturers would incur 540 burden hours and related costs of $27,000 in the first year that the rule is in effect; 270 burden hours and related costs of $13,500 in the second year that the rule is in effect; and 170 burden hours and related costs of $8,500 in the third year that the rule is in effect.

Proposed § 14.7, which would require approval holders to retain initial sales records of conveyor belts, is considered by MSHA to be an information collection requirement that does not result in a paperwork burden because it is considered a part of normal business practices.

For a summary of the burden hours and related costs by proposed provision, see the PREA accompanying this proposed rule. The PREA is posted on MSHA's Web site at *http://www.msha.gov/REGSINFO.HTM*. A copy of the PREA can be obtained from MSHA's Office of Standards, Regulations, and Variances at the address provided in the **ADDRESSES** section of this preamble.

B. Procedural Details

The information collection package has been submitted to OMB for review under 44 U.S.C. 3504, paragraph (h) of the Paperwork Reduction Act of 1995, as amended. A copy of the information collection package can be obtained from the Department of Labor by electronic mail request to *king.darrin@dol.gov* or by phone request to 202–693–4129.

MSHA requests comments to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments on the information collection requirements should be sent to both OMB and MSHA. Addresses for both offices can be found in the **ADDRESSES** section of this preamble. The regulated community is not required to respond to any collection of information unless it displays a current, valid, OMB control number. MSHA displays OMB control numbers in 30 CFR part 3.

VIII. Other Regulatory Analyses

A. The Unfunded Mandates Reform Act of 1995

MSHA has reviewed the proposed rule under the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*). MSHA has determined that the proposed rule would not include any Federal mandate that may result in increased expenditures by State, local, or tribal governments; and it would not increase private sector expenditures by more than $100 million in any one year or significantly or uniquely affect small governments. Accordingly, the Unfunded Mandates Reform Act of 1995 requires no further agency action or analysis.

B. Treasury and General Government Appropriations Act of 1999: Assessment of Federal Regulations and Policies on Families

The proposed rule would have no effect on family well-being or stability, marital commitment, parental rights or authority, or income or poverty of families and children. Accordingly, § 654 of the Treasury and General Government Appropriations Act of 1999 (5 U.S.C. 601 note) requires no further agency action, analysis, or assessment.

C. Executive Order 12630: Government Actions and Interference With Constitutionally Protected Property Rights

The proposed rule would not implement a policy with takings implications. Accordingly, Executive Order 12630 requires no further agency action or analysis.

D. Executive Order 12988: Civil Justice Reform

The proposed rule was written to provide a clear legal standard for affected conduct and was carefully reviewed to eliminate drafting errors and ambiguities, so as to minimize litigation and undue burden on the Federal court system. Accordingly, the proposed rule meets the applicable standards provided in § 3 of Executive Order 12988.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The proposed rule would have no adverse impact on children.

Accordingly, Executive Order 13045 requires no further agency action or analysis.

F. Executive Order 13132: Federalism

The proposed rule would not have ''federalism implications'' because it would 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.'' Accordingly, Executive Order 13132 requires no further agency action or analysis.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

The proposed rule would not have ''tribal implications'' because it would not ''have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' Accordingly, Executive Order 13175 requires no further agency action or analysis.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

The proposed rule has been reviewed for its impact on the supply, distribution, and use of energy because it applies to the coal mining industry. Because the proposed rule would result in yearly costs of approximately $52 million to the underground coal mining industry, relative to annual revenues of $14.1 billion in 2007, the proposed rule is not a ''significant energy action'' because it is not ''likely to have a significant adverse effect on the supply, distribution, or use of energy * * * (including a shortfall in supply, price increases, and increased use of foreign supplies).'' Accordingly, Executive Order 13211 requires no further Agency action or analysis.

I. Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking

MSHA has reviewed the proposed rule to assess and take appropriate account of its potential impact on small businesses, small governmental jurisdictions, and small organizations. MSHA has determined and certified that the proposed rule would not have a significant economic impact on a substantial number of small entities.

IX. Proposed Rule

List of Subjects

30 CFR Part 6

Mine safety and health, Reporting and recordkeeping requirements, Research.

30 CFR Part 14

Mine safety and health, Reporting and recordkeeping requirements.

30 CFR Part 18

Mine safety and health, Reporting and recordkeeping requirements.

30 CFR Part 48

Education, Mine safety and health, Reporting and recordkeeping requirements.

30 CFR Part 75

Communications equipment, Electric power, Emergency medical services, Explosives, Fire prevention, Mine safety and health, Reporting and recordkeeping requirements.

Dated: June 11, 2008.

Richard E. Stickler,

Acting Assistant Secretary for Mine Safety and Health.

For the reasons set out in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977 as amended by the Mine Improvement and New Emergency Response Act of 2006, MSHA is proposing to amend chapter I of title 30 of the Code of Federal Regulations as follows.

PART 6—TESTING AND EVALUATION BY INDEPENDENT LABORATORIES AND NON-MSHA PRODUCT SAFETY STANDARDS

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

Authority: 30 U.S.C. 957.

2. Amend § 6.2 by revising the definition of ''Equivalent non-MSHA product safety standards'' to read as follows:

§ 6.2 Definitions.

* * * * *

Equivalent non-MSHA product safety standards. A non-MSHA product safety standard, or group of standards, determined by MSHA to provide at least the same degree of protection as the applicable MSHA product approval requirements in parts 14, 18, 19, 20, 22, 23, 27, 33, 35, and 36 of this chapter, or which in modified form provide at least the same degree of protection.

* * * * *

3. Amend § 6.20 to revise paragraph (a)(1) to read as follows:

§ 6.20 MSHA acceptance of equivalent non-MSHA product safety standards.

(a) * * *

(1) Provide at least the same degree of protection as MSHA's product approval requirements in parts 14, 18, 19, 20, 33, 35 and 36 of this chapter; or

* * * * *

4. Add new part 14 to subchapter B chapter I, title 30 of Code of Federal Regulations to read as follows:

PART 14—REQUIREMENTS FOR THE APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS

Subpart A—General Provisions

Sec.
14.1 Purpose and effective date for approval holders.
14.2 Definitions.
14.3 Observers at tests and evaluations.
14.4 Application procedures and requirements.
14.5 Test samples.
14.6 Issuance of approval.
14.7 Approval marking and distribution records.
14.8 Quality assurance.
14.9 Disclosure of information.
14.10 Post-approval product audit.
14.11 Revocation.

Subpart B—Technical Requirements

14.20 Flame resistance.
14.21 Laboratory-scale flame test apparatus.
14.22 Test for flame resistance of conveyor belts.
14.23 New technology.

Authority: 30 U.S.C. 957.

Subpart A—General Provisions

§ 14.1 Purpose and effective date for approval holders.

This part establishes the flame resistance requirements for MSHA approval of conveyor belts for use in underground coal mines. Applications for approval or extension of approval submitted after [Insert date XXX days after the date of publication in the **Federal Register**] must meet the requirements of this Part.

§ 14.2 Definitions.

The following definitions apply in this part:

Applicant. An individual or organization that manufactures or controls the production of a conveyor belt and applies to MSHA for approval of conveyor belt for use in underground coal mines.

Approval. A document issued by MSHA which states that a conveyor belt has met the requirements of this part and which authorizes an approval marking identifying the conveyor belt as approved.

Extension of approval. A document issued by MSHA which states that a

change to a product previously approved by MSHA under this part meets the requirements of this part and which authorizes the continued use of the approval marking after the appropriate extension number has been added.

Flame-retardant ingredient. A material that inhibits ignition or flame propagation.

Flammable ingredient. A material that is capable of combustion.

Inert ingredient. A material that does not contribute to combustion.

Post-approval product audit. An examination, testing, or both, by MSHA of an approved conveyor belt selected by MSHA to determine if it meets the technical requirements and has been manufactured as approved.

Similar conveyor belt. A conveyor belt that shares the same cover compound, general carcass construction, and fabric type as another approved conveyor belt.

§ 14.3 Observers at tests and evaluations.

Only MSHA personnel, representatives of the applicant, and other persons agreed upon by MSHA and the applicant may be present during tests and evaluations conducted under this part.

§ 14.4 Application procedures and requirements.

(a) *Application address.* Applications for approvals or extensions of approval under this Part may be sent to: U.S. Department of Labor, Mine Safety and Health Administration, Chief, Approval and Certification Center, P.O. Box 251, Industrial Park Road, Triadelphia, West Virginia 26059. Alternatively, applications for approval or extensions of approval may be filed online at *http://www.msha.gov* or faxed to: Chief, Mine Safety and Health Administration Approval and Certification Center at 304–547–2044.

(b) *Approval application.* Each application for approval of a conveyor belt for use in underground coal mines must include the information below, except any information submitted in a prior approval application need not be re-submitted, but must be noted in the application.

(1) A technical description of the conveyor belt which includes:

(i) Trade name or identification number;

(ii) Cover compound type and designation number;

(iii) Belt thickness and thickness of top and bottom covers;

(iv) Presence and type of skim coat;

(v) Presence and type of friction coat;

(vi) Carcass construction (number of plies, solid woven);

(vii) Carcass fabric by textile type and weight (ounce per square yard);

(viii) Presence and type of breaker or floated ply; and

(ix) The number, type, and size of cords and fabric for metal cord belts.

(2) Formulation information on the compounds in the conveyor belt indicated by either:

(i) Specifying each ingredient by its chemical name along with its percentage (weight) and tolerance or percentage range; or

(ii) Specifying each flame-retardant ingredient by its chemical or generic name with its percentage and tolerance or percentage range or its minimum percent. List each flammable ingredient by chemical, generic, or trade name along with the total percentage of all flammable ingredients. List each inert ingredient by chemical, generic, or trade name along with the total percentage of all inert ingredients.

(3) The name, address, and telephone number of the applicant's representative responsible for answering any questions regarding the application.

(4) Identification of any similar conveyor belt for which the applicant already holds an approval.

(i) The MSHA assigned approval number of the conveyor belt which most closely resembles the new one; and

(ii) An explanation of any changes from the existing approval.

(c) *Extension of approval.* Any change in an approved conveyor belt from the documentation on file at MSHA that affects the technical requirements of this part must be submitted for approval prior to implementing the change. Each application for an extension of approval must include:

(1) The MSHA-assigned approval number for the conveyor belt for which the extension is sought;

(2) A description of the proposed change to the conveyor belt; and

(3) The name, address, and telephone number of the applicant's representative responsible for answering any questions regarding the application.

(d) MSHA will determine if testing, additional information, samples, or material is required to evaluate an application. If the applicant believes that flame testing is not required, a statement explaining the rationale must be included in the application.

(e) *Equivalent non-MSHA product safety standard.* An applicant may request an equivalency determination to this part under § 6.20 of this chapter, for a non-MSHA product safety standard.

(f) *Fees.* Fees calculated in accordance with part 5 of this chapter must be submitted in accordance with § 5.40.

§ 14.5 Test samples.

Upon request by MSHA, the applicant must submit 3 precut, unrolled, flat conveyor belt samples for flame testing. Each sample must be 60 ± ¼ inches long (152.4 ± 0.6 cm) by 9 ± ⅛ inches (22.9 ± 0.3 cm) wide.

§ 14.6 Issuance of approval.

(a) MSHA will issue an approval or notice of the reasons for denying approval after completing the evaluation and testing provided in this part.

(b) An applicant must not advertise or otherwise represent a conveyor belt as approved until MSHA has issued an approval.

§ 14.7 Approval marking and distribution records.

(a) An approved conveyor belt must be marketed only under the name specified in the approval.

(b) Approved conveyor belt must be legibly and permanently marked with the assigned MSHA approval number for the service life of the product. The approval marking must be at least ½ inch (1.27 cm) high, placed at intervals not to exceed 60 feet (18.3 m) and repeated at least once every foot (0.3 m) across the width of the belt.

(c) Where the construction of a conveyor belt does not permit marking as prescribed above, other permanent marking may be accepted by MSHA.

(d) Applicants granted approval must maintain records of the initial sale of each belt having an approval marking. The records must be retained for at least 5 years following the initial sale.

§ 14.8 Quality assurance.

Applicants granted an approval or an extension of approval under this part must:

(a) Flame test a sample of each batch, lot, or slab of conveyor belts; or flame test or inspect a sample of each batch or lot of the materials that contribute to the flame-resistance characteristic. This will assure that the finished conveyor belt slab will meet the flame-resistance test.

(b) Calibrate instruments used for the inspection and testing in paragraph (a) of this section according to the instrument manufacturer's specifications. Instruments must be calibrated using standards set by the National Institute of Standards and Technology, U.S. Department of Commerce or other nationally or internationally recognized standards. The instruments used must be accurate to at least one significant figure beyond the desired accuracy.

(c) Control production so that the conveyor belt is manufactured in accordance with the approval

document. If a third party is assembling or manufacturing all or part of an approved belt, the approval holder shall assure that the product is manufactured as approved.

(d) Immediately notify the MSHA Approval and Certification Center of any information that a conveyor belt has distributed that does not meet the specifications of the approval. This notification must include a description of the nature and extent of the problem, the locations where the conveyor belt has been distributed, and the approval holder's plans for corrective action.

§ 14.9 Disclosure of information.

(a) All proprietary information concerning product specifications and performance submitted to MSHA by the applicant will be protected.

(b) MSHA will notify the applicant or approval holder of requests for disclosure of information concerning its conveyor belts, and provide an opportunity to present its position prior to any decision on disclosure.

§ 14.10 Post-approval product audit.

(a) Approved conveyor belts will be subject to periodic audits by MSHA to determine conformity with the technical requirements upon which the approval was based. MSHA will select an approved conveyor belt to be audited; the selected belt will be representative of that distributed for use in mines. Upon request to MSHA, the approval-holder may obtain any final report resulting from the audit.

(b) No more than once a year, except for cause, the approval-holder, at MSHA's request, must make 3 samples of an approved conveyor belt of the size specified in § 14.5 available at no cost to MSHA for an audit. If a product is not available because it is not currently in production, the manufacturer will notify MSHA when it is available. The approval-holder may observe any tests conducted during the audit.

(c) A conveyor belt will be subject to audit for cause at any time MSHA believes the approval holder product is not in compliance with the technical requirements of the approval.

§ 14.11 Revocation.

(a) MSHA may revoke for cause an approval issued under this part if the conveyor belt—

(1) Fails to meet the technical requirements; or

(2) Creates a danger or hazard when used in a mine.

(b) Prior to revoking an approval, the approval-holder will be informed in writing of MSHA's intention to revoke. The notice will—

(1) Explain the reasons for the proposed revocation; and

(2) Provide the approval-holder an opportunity to demonstrate or achieve compliance with the product approval requirements.

(c) Upon request to MSHA, the approval-holder will be given the opportunity for a hearing.

(d) If a conveyor belt poses an imminent danger or hazard to the safety or health of miners, an approval may be immediately suspended without written notice of the Agency's intention to revoke. The suspension may continue until the revocation proceedings are completed.

Subpart B—Technical Requirements

§ 14.20 Flame resistance.

Conveyor belts for use in underground coal mines must be flame-resistant and:

(a) Tested in accordance with § 14.22 of this part; or

(b) Tested in accordance with an alternate test determined by MSHA to be equivalent under 30 CFR 6.20 and 14.4(e).

§ 14.21 Laboratory-scale flame test apparatus.

The principal parts of the apparatus used to test for flame resistance of conveyor belts are as follows—

(a) A horizontal test chamber 66 inches (167.6 cm) long by 18 inches (45.7 cm) square (inside dimensions) constructed from 1 inch (2.5 cm) thick Marinite I®, or equivalent insulating material.

(b) A 16-gauge (0.16 cm) stainless steel duct section which tapers over a length of at least 24 inches (61 cm) from a 20 inch (51 cm) square cross-sectional area at the test chamber connection to a 12 inch (30.5 cm) diameter exhaust duct, or equivalent. The interior surface of the tapered duct section must be lined with ½ inch (1.27 cm) thick ceramic blanket insulation, or equivalent insulating material. The tapered duct must be tightly connected to the test chamber.

(c) A U-shaped gas-fueled impinged jet burner ignition source, measuring 12 inches (30.5 cm) long and 4 inches (10.2 cm) wide, with two parallel rows of 6 jets each. Each jet is spaced alternately along the U-shaped burner tube. The 2 rows of jets are slanted so that they point toward each other and the flame from each jet impinges upon each other in pairs. The burner fuel must be at least 98 percent methane (technical grade) or natural gas containing at least 96 percent combustible gases, which includes not less than 93 percent methane.

(d) A removable steel rack, consisting of 2 parallel rails and supports that form a 7 ± ⅛ inches (17.8 ± 0.3 cm) wide by 60 ± ⅛ inches (152.4 ± 0.3 cm) long assembly to hold a belt sample.

(1) The 2 parallel rails, with a 5 ± ⅛ inches (12.7 ± 0.3 cm) space between them, comprise the top of the rack. The rails and supports must be constructed of slotted angle iron with holes along the top surface.

(2) The top surface of the rack must be 8 ± ⅛ inches (20.3 ± 0.3 cm) from the inside roof of the test chamber.

§ 14.22 Test for flame resistance of conveyor belts.

(a) *Test procedures.* The test must be conducted in the following sequence using a flame test apparatus meeting the specifications of § 14.21:

(1) Lay three samples of the belt, 60 ± ¼ inches (152.4 ± 0.6 cm) long by 9 ± ⅛ inches (22.9 ± 0.3 cm) wide, flat at a temperature of 70 ± 10 °Fahrenheit (21 ± 5 °Centigrade) for at least 24 hours prior to the test;

(2) For each of three tests, place one belt sample with the load-carrying surface facing up on the rails of the rack so that the sample extends 1 ± ⅛ inch (2.5 ± 0.3 cm) beyond the front of the rails and 1 ± ⅛ inch (2.5 ± 0.3 cm) from the outer lengthwise edge of each rail;

(3) Fasten the sample to the rails of the rack with steel washers and cotter pins. The cotter pins shall extend at least ¾ inch (1.9 cm) below the rails. Equivalent fasteners may be used. Make a series of 5 holes approximately 9/32 inch (0.7 cm) in diameter along both edges of the belt sample, starting at the first rail hole within 2 inches (5.1 cm) from the front edge of the sample. Make the next hole 5 ± ¼ inches (12.7 ± 0.6 cm) from the first, the third hole 5 ± ¼ inches (12.7 ± 0.6 cm) from the second, the fourth hole approximately midway along the length of the sample, and the fifth hole near the end of the sample. After placing a washer over each sample hole, insert a cotter pin through the hole and spread it apart to secure the sample to the rail;

(4) Center the rack and sample in the test chamber with the front end of the sample 6 ± ½ inches (15.2 ± 1.27 cm) from the entrance;

(5) Measure the airflow with a 4-inch (10.2 cm) diameter vane anemometer, or an equivalent device, placed on the centerline of the belt sample 12 ± ½ inches (30.5 ± 1.27 cm) from the chamber entrance. Adjust the airflow passing through the chamber to 200 ± 20 ft/min (61 ± 6 m/min);

(6) Before starting the test on each sample, the inner surface temperature of the chamber roof measured at points 6

± ½, 30 ± ½, and 60 ± ½ inches (15.2 ± 1.27, 76.2 ± 1.27, and 152.4 ± 1.27 cm) from the front entrance of the chamber must not exceed 95 °Fahrenheit (35 °Centigrade) at any of these points with the specified airflow passing through the chamber. The temperature of the air entering the chamber during the test on each sample must not be less than 50 °Fahrenheit (10 ° Centigrade);

(7) Center the burner in front of the sample's leading edge with the plane, defined by the tips of the burner jets, ¾ ± ⅛ inch (1.9 ± 0.3 cm) from the front edge of the belt;

(8) With the burner lowered away from the sample, set the gas flow at 1.2 ± 0.1 standard cubic feet per minute (SCFM) (34 ± 2.8 liters per minute) and then ignite the gas burner. Maintain the gas flow to the burner throughout the 5 to 5.1 minute ignition period;

(9) After applying the burner flame to the front edge of the sample for a 5 to 5.1 minute ignition period, lower the burner away from the sample and extinguish the burner flame;

(10) After completion of each test, determine the undamaged portion across the entire width of the sample. Blistering without charring does not constitute damage.

(b) *Acceptable performance.* Each tested sample must exhibit an undamaged portion across its entire width.

(c) MSHA may modify the procedures of the flammability test for belts constructed of thicknesses more than ¾ inch (1.9 cm).

§ 14.23 New technology.

MSHA may approve a conveyor belt that incorporates technology for which the requirements of this part are not applicable if the Agency determines that the conveyor belt is as safe as those which meet the requirements of this part.

PART 18—ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT AND ACCESSORIES

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

Authority: 30 U.S.C. 957, 961.

§ 18.1 [Amended]

6. Section 18.1 is amended by revising the phrase ''hoses and conveyor belts'' to read ''hoses''.

§ 18.2 [Amended]

7. Section 18.2 is amended by revising the phrase ''hose or conveyor belt'' to read ''hose'' in the definitions of ''Acceptance'', ''Acceptance Marking'', and ''Applicant'' and removing the definition for ''Fire-resistant''.

§ 18.6 [Amended]

8. Section 18.6 is amended as follows:

a. Paragraph (a)(1) is amended by revising the phrase ''hose or conveyor belt'' to read ''hose''.

b. Paragraph (c) is removed and reserved.

c. Paragraph (i) is amended by revising the phrase ''hose or conveyor belt'' to read ''hose'' and removing the words ''conveyor belt—a sample of each type 8 inches long cut across the entire width of the belt''.

§ 18.9 [Amended]

9–11. Section 18.9(a) is amended by revising the phrase ''hose or conveyor belt'' to read ''hose''.

§ 18.65 [Amended]

12. Section 18.65 is amended by revising the phrase in the heading, ''Flame test of conveyor belting and hose'' to read ''Flame test of hose'' and by removing and reserving paragraph (a)(1) and removing and reserving paragraph (f)(1).

PART 48—TRAINING AND RETRAINING OF MINERS

13. The authority citation for part 48 continues to read as follows:

Authority: 30 U.S.C. 811, 825.

Subpart B—Training and Retraining of Miners Working at Surface Mines and Surface Areas of Underground Mines

14. Amend § 48.27 to revise the first sentence in paragraph (a) to read as follows:

§ 48.27 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.

(a) Miners assigned to new work tasks as mobile equipment operators, drilling machine operators, haulage and conveyor systems operators, ground control machine operators, AMS operators, and those in blasting operations shall not perform new work tasks in these categories until training prescribed in this paragraph and paragraph (b) of this section has been completed.* * *

* * * * *

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

Subpart B—Qualified and Certified Persons

15. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

16. Section 75.156 is added to read as follows:

§ 75.156 AMS operator, qualifications.

(a) To be qualified as an AMS operator, a person shall be provided with task training on duties and responsibilities at each mine where an AMS operator is employed in accordance with the mine operator's approved Part 48 training plan.

(b) An AMS operator must be able to demonstrate to an authorized representative of the Secretary that he/she is qualified to perform in the assigned position.

Subpart D—Ventilation

17. In § 75.333, paragraph (c)(4) is added to read as follows:

§ 75.333 Ventilation controls.

* * * * *

(c) * * *

(4) An airlock shall be established where the air pressure differential between air courses creates a static force exceeding 125 pounds on closed personnel doors along escapeways.

* * * * *

18. In § 75.350, paragraphs (a)(2), (b) introductory text, (b)(3), and (d)(1) are revised, and (b)(7), (b)(8), and (d)(7) are added to read as follows:

§ 75.350 Belt air course ventilation.

(a) * * *

(2) Effective [insert date one year after date of publication of the final rule in the **Federal Register**], unless otherwise approved by the District Manager in the mine ventilation plan, the air velocity in the belt entry must be at least 50 feet per minute. Air velocities must be compatible with all fire detection systems and fire suppression systems used in the belt entry.

(b) The use of air from a belt air course to ventilate a working section or an area where mechanized mining equipment is being installed or removed shall be permitted only when evaluated and approved by the District Manager in the mine ventilation plan. The mine operator must provide justification in the plan that the use of air from a belt entry would afford at least the same measure of protection where belt haulage entries are not used to ventilate working places. In addition, the following requirements must be met:

* * * * *

(3)(i) The average concentration of respirable dust in the belt air course, when used as a section intake air course, must be maintained at or below 1.0 mg/m^3.

(ii) Where miners on the working section are on a reduced standard below

1.0 mg/m^3, the average concentration of respirable dust in the belt entry must be at or below the lowest applicable respirable dust standard on that section.

(iii) A permanent designated area (DA) for dust measurements must be established at a point no greater than 50 feet upwind from the section loading point in the belt entry when the belt air flows over the loading point or no greater than 50 feet upwind from the point where belt air is mixed with air from another intake air course near the loading point. The DA must be specified and approved in the ventilation plan.

* * * * *

(7) The air velocity in the belt entry must be at least 100 feet per minute. When requested by the mine operator, the District Manager may approve lower velocities in the ventilation plan based on specific mine conditions.

(8) The air velocity in the belt entry must not exceed 1,000 feet per minute. When requested by the mine operator, the District Manager may approve higher velocities in the ventilation plan based on specific mine conditions.

* * * * *

(d) * * *

(1) The air current that will pass through the point-feed regulator must be monitored for carbon monoxide or smoke at a point within 50 feet upwind of the point-feed regulator. A second point must be monitored 1,000 feet upwind of the point-feed regulator unless the mine operator requests a lesser distance be approved by the District Manager in the mine ventilation plan based on mine specific conditions;

* * * * *

(7) Where point-feeding air from a primary escapeway to a belt entry designated as an alternate escapeway, point-feed regulators must be equipped with a means to remotely close the regulator or any other means to isolate the two escapeways. The AMS operator, after consultation with the responsible person and section foreman, must be capable of performing this function from the designated surface location.

19. Paragraph (b)(2), (e), and (q) of § 75.351 are revised to read as follows:

§ 75.351 Atmospheric monitoring systems.

* * * * *

(b) * * *

(2) The mine operator must designate an AMS operator to monitor and promptly respond to all AMS signals. The AMS operator must have as a primary duty the responsibility to monitor the malfunction, alert and alarm signals of the AMS, and to notify appropriate personnel of these signals.

* * * * *

(e) *Location of sensors-belt air course.*

(1) In addition to the requirements of paragraph (d) of this section, any AMS used to monitor belt air courses under § 75.350(b) must have approved sensors to monitor for carbon monoxide at the following locations:

(i) At or near the working section belt tailpiece in the air stream ventilating the belt entry. In longwall mining systems the sensor must be located upwind in the belt entry at a distance no greater than 150 feet from the mixing point where intake air is mixed with the belt air at or near the tailpiece;

(ii) No more than 50 feet upwind from the point where the belt air course is combined with another air course or splits into multiple air courses;

(iii) At intervals not to exceed 1,000 feet along each belt entry. However, in areas along each belt entry where air velocities are between 50 and 100 feet per minute, spacing of sensors must not exceed 500 feet. In areas along each belt entry where air velocities are less than 50 feet per minute, the sensor spacing must not exceed 350 feet;

(iv) Not more than 100 feet downwind of each belt drive unit, each tailpiece transfer point, and each belt take-up. If the belt drive, tailpiece, and/or take-up for a single transfer point are installed together in the same air course, and the distance between the units is less than 100 feet, they may be monitored with one sensor downwind of the last component. If the distance between the units exceeds 100 feet, additional sensors are required downwind of each belt drive unit, each tailpiece transfer point, and each belt take-up; and

(v) At other locations in any entry that is part of the belt air course as required and specified in the mine ventilation plan.

(2) Smoke sensors must be installed to monitor the belt entry under § 75.350(b) at the following locations:

(i) At or near the working section belt tailpiece in the air stream ventilating the belt entry. In longwall mining systems the sensor must be located upwind in the belt entry at a distance no greater than 150 feet from the mixing point where intake air is mixed with the belt air at or near the tailpiece;

(ii) Not more than 100 feet downwind of each belt drive unit, each tailpiece transfer point, and each belt take-up. If the belt drive, tailpiece, and/or take-up for a single transfer point are installed together in the same air course, and the distance between the units is less than 100 feet, they may be monitored with one sensor downwind of the last component. If the distance between the units exceeds 100 feet, additional sensors are required downwind of each belt drive unit, each tailpiece transfer point, and each belt take-up; and

(iii) At intervals not to exceed 3,000 feet along each belt entry.

(iv) This provision shall be effective one year after the Secretary has determined that a smoke sensor is available to reliably detect fire in underground coal mines.

* * * * *

(q) *Training.*

(1) All AMS operators must be trained annually in the proper operation of the AMS. This training must include the following subjects:

(i) Familiarity with underground mining systems;

(ii) Basic atmospheric monitoring system requirements;

(iii) The mine emergency evacuation and firefighting program of instruction;

(iv) The mine ventilation system including planned air directions;

(v) Appropriate response to alert, alarm and malfunction signals;

(vi) Use of mine communication systems including emergency notification procedures; and

(vii) AMS recordkeeping requirements.

(2) At least once every six months, all AMS operators must travel to all working sections.

(3) A record of the content of training, the person conducting the training, and the date the training was conducted, must be maintained at the mine for at least two years by the mine operator.

* * * * *

20. Section 75.352 is amended by revising paragraph (f) and by adding paragraph (g) to read as follows:

§ 75.352 Actions in response to AMS malfunction, alert, or alarm signals.

* * * * *

(f) If the minimum air velocity is not maintained when required under § 75.350(b)(7), immediate action must be taken to return the ventilation system to proper operation. While the ventilation system is being corrected, operation of the belt may continue only while a trained person(s) patrols and continuously monitors for carbon monoxide or smoke as set forth in §§ 75.352(e)(3) through (7), so that the affected areas will be traveled each hour in their entirety.

(g) The AMS shall automatically provide both a visual and audible signal in the belt entry at the point-feed regulator location, at affected sections, and at the designated surface location when carbon monoxide concentrations reach:

(1) The alert level at both point-feed intake monitoring sensors; or

(2) The alarm level at either point-feed intake monitoring sensor.

21. Section 75.371 is amended by revising paragraphs (jj), (mm), (nn), and by adding paragraphs (yy) and (zz) to read as follows:

§ 75.371 Mine ventilation plan; contents.

* * * * *

(jj) The locations and approved velocities at those locations where air velocities in the belt entry are above or below the limits set forth in § 75.350(a)(2) or §§ 75.350(b)(7) and 75.350(b)(8).

* * * * *

(mm) The location of any diesel-discriminating, and additional carbon monoxide or smoke sensors installed in the belt air course.

(nn) The length of the time delay or any other method used to reduce the number of non-fire related alert and alarm signals from carbon monoxide sensors.

* * * * *

(yy) The locations where airlock doors are installed between air courses.

(zz) The locations where the pressure differential cannot be maintained from the primary escapeway to the belt entry.

22. Section 75.380 is amended by revising paragraphs (d)(7)(v) and (vi) and (f)(1) and adding (d)(7)(vii), (viii) and (ix) to read as follows:

§ 75.380 Escapeways; bituminous and lignite mines.

* * * * *

(d) * * *

(7) * * *

(v) Equipped with one directional indicator cone, signifying the route of escape, placed at intervals not exceeding 100 feet. Cones shall be installed so that the tapered section points in by;

(vi) Securely attached to and marked to provide tactile feedback indicating the location of any SCSR storage locations in the escapeways. The tactile feedback for SCSR storage locations shall be six back-to-back directional cones;

(vii) Marked to provide tactile feedback distinguishable from other markings to indicate the location of readily accessible personnel doors installed in adjacent crosscuts connecting escapeways. The tactile feedback for personnel doors shall be four back-to-back directional cones;

(viii) Marked to provide tactile feedback distinguishable from other markings to indicate the location of physical impediments in the escapeway. The tactile feedback for physical impediments shall be two back-to-back directional cones; and

(ix) Marked to provide tactile feedback distinguishable from other markings to indicate the location of refuge alternatives. The tactile feedback for a refuge alternative location shall be a two-foot length of rigid spiraled coil (cork-screw style). Another line must be attached from the lifeline to the refuge alternative.

* * * * *

(f) *Primary escapeway.* (1) One escapeway that is ventilated with intake air shall be designated as the primary escapeway. The primary escapeway shall have a higher ventilation pressure than the belt entry unless the mine operator submits an alternative in the mine ventilation plan to protect the integrity of the primary escapeway, based on mine specific conditions, which is approved by the District Manager.

* * * * *

23. Section 75.381 is amended by revising paragraphs (c)(5)(v) and (vi) and (e), and adding (c)(5)(vii), (viii) and (ix) to read as follows:

§ 75.381 Escapeways; anthracite mines.

* * * * *

(c) * * *

(5) * * *

(v) Equipped with one directional indicator cone, signifying the route of escape, placed at intervals not exceeding 100 feet. Cones shall be installed so that the tapered section points in by;

(vi) Securely attached to and marked to provide tactile feedback indicating the location of any SCSR storage locations in the escapeways. The tactile feedback for SCSR storage locations shall be six back-to-back directional cones;

(vii) Marked to provide tactile feedback distinguishable from other markings to indicate the location of readily accessible personnel doors installed in adjacent crosscuts connecting escapeways. The tactile feedback for personnel doors shall be four back-to-back directional cones;

(viii) Marked to provide tactile feedback distinguishable from other markings to indicate the location of physical impediments in the escapeway. The tactile feedback for physical impediments shall be two back-to-back directional cones; and

(ix) Marked to provide tactile feedback distinguishable from other markings to indicate the location of refuge alternatives. The tactile feedback for a refuge alternative location shall be a two-foot length of rigid spiraled coil (cork-screw style). Another line must be attached from the lifeline to the refuge alternative.

* * * * *

(e) *Primary escapeway.* One escapeway that shall be ventilated with intake air shall be designated as the primary escapeway. The primary escapeway shall have a higher ventilation pressure than the belt entry unless the mine operator submits an alternative in the mine ventilation plan to protect the integrity of the primary escapeway, based on mine specific conditions, which is approved by the District Manager.

* * * * *

Subpart L—Fire Protection

24. Section 75.1103–4 is amended by revising paragraphs (a) and (b) to read as follows:

§ 75.1103–4 Automatic fire sensor and warning device systems; installation; minimum requirements.

(a) Effective [insert date one year after date of publication of the final rule in the **Federal Register**], automatic fire sensor and warning device systems that use carbon monoxide sensors shall provide identification of fire along all belt conveyors.

(1) Carbon monoxide sensors shall be installed at the following locations:

(i) Not more than 100 feet downwind of each belt drive unit, each tailpiece transfer point, and each belt take-up. If the belt drive, tailpiece, and/or take-up for a single transfer point are installed together in the same air course, and the distance between the units is less than 100 feet, they may be monitored with one sensor downwind of the last component. If the distance between the units exceeds 100 feet, additional sensors are required downwind of each belt drive unit, each tailpiece transfer point, and each belt take-up;

(ii) Not more than 100 feet downwind of each section loading point;

(iii) Along the belt entry so that the spacing between sensors does not exceed 1,000 feet. Where air velocities are less than 50 feet per minute, spacing must not exceed 350 feet; and

(iv) No more than 50 feet upwind from the point where the belt air course is combined with another air course or splits into multiple air courses.

(2) Where used, sensors responding to radiation, smoke, gases, or other indications of fire, shall be spaced at regular intervals to provide protection equivalent to carbon monoxide sensors, and installed within the time specified in paragraph (a)(3) of this section.

(3) When the distance from the tailpiece at loading points to the first outby sensor reaches the spacing requirements in § 75.1103–4(a)(1)(iii), an additional sensor shall be installed

and put in operation within 24 production shift hours. When sensors of the kind described in paragraph (a)(2) of this section are used, such sensor shall be installed and put in operation within 24 production shift hours after the equivalent distance which has been established for the sensor from the tailpiece at loading points to the first outby sensor is first reached.

(b) Automatic fire sensor and warning device systems shall be installed so as to minimize the possibility of damage from roof falls and the moving belt and its load. Sensors must be installed near the center in the upper third of the entry, in a manner that does not expose personnel working on the system to unsafe conditions. Sensors must not be located in abnormally high areas or in other locations where air flow patterns do not permit products of combustion to be carried to the sensors.

* * * * *

25. The section heading and paragraph (a) of § 75.1103–5 is revised and paragraphs (d), (e), (f), (g) and (h) are added to read as follows:

§ 75.1103–5 Automatic fire warning devices; actions and response.

(a) When the carbon monoxide level reaches 10 parts per million above the established ambient level at any sensor location, automatic fire sensor and warning device systems shall upon activation provide an effective warning signal at the following locations:

(1) At working sections and other work locations where miners may be endangered from a fire in the belt entry.

(2) At a manned surface location where personnel have an assigned post of duty. The manned surface location must have:

(i) A telephone or equivalent communication with all miners who may be endangered and

(ii) A map or schematic that shows the locations of sensors, and the intended air flow direction at these locations. This map or schematic must be updated within 24 hours of any change in this information.

(3) The automatic fire sensor and warning device system shall be monitored for a period of 4 hours after the belt is stopped, unless an examination for hot rollers and fire is made as prescribed in § 75.1103–4(e).

* * * * *

(d) When a malfunction or warning signal is received at the manned surface location, the sensors that are activated must be identified and appropriate personnel immediately notified.

(e) Upon notification of a malfunction or warning signal, appropriate personnel must immediately initiate an investigation to determine the cause of the malfunction or warning signal and take the required actions set forth in paragraph (f) of this section.

(f) If any sensor indicates a warning, the following actions must be taken unless the mine operator determines that the signal does not present a hazard to miners:

(1) Appropriate personnel must notify miners in affected working sections, in affected areas where mechanized mining equipment is being installed or removed, and at other locations specified in the approved mine emergency evacuation and firefighting program of instruction; and

(2) All miners in the affected areas, unless assigned emergency response duties, must be immediately withdrawn to a safe location identified in the mine emergency evacuation and firefighting program of instruction.

(g) If the warning signal will be activated during calibration of sensors, personnel manning the surface location must be notified prior to and upon completion of calibration. Miners on affected working sections, areas where mechanized mining equipment is being installed or removed, or other areas designated in the approved emergency evacuation and firefighting program of instruction must be notified at the beginning and completion of calibration.

(h) If any fire detection component becomes inoperative, immediate action must be taken to repair the component. While repairs are being made, operation of the belt may continue if the following requirements are met:

(1) If one sensor becomes inoperative, a trained person must continuously monitor for carbon monoxide at the inoperative sensor;

(2) If two or more adjacent sensors become inoperative, trained persons must patrol and continuously monitor the affected areas for carbon monoxide so that they will be traveled each hour in their entirety. Alternatively, a trained person must be stationed at each inoperative sensor to monitor for carbon monoxide;

(3) If the complete fire detection system becomes inoperative, trained persons must patrol and continuously monitor the affected areas for carbon monoxide so that they will be traveled each hour in their entirety;

(4) Trained persons who conduct monitoring under this section must have two-way voice communication capability, at intervals not to exceed 2,000 feet, and must report carbon monoxide concentrations to the surface at intervals not to exceed one hour;

(5) Trained persons who conduct monitoring under this section must immediately report to the surface, any concentration of carbon monoxide that reaches 10 parts per million above the established ambient level, unless the mine operator knows that the source of the carbon monoxide does not present a hazard to miners; and

(6) Handheld detectors used to monitor the belt entry under this section must have a detection level equivalent to that of the system's carbon monoxide sensors.

26. Section 75.1103–6 is revised to read as follows:

§ 75.1103–6 Automatic fire sensors; actuation of fire suppression systems.

Point-type heat sensors or automatic fire sensor and warning device systems may be used to actuate deluge-type water systems, foam generator systems, multipurpose dry-powder systems, or other equivalent automatic fire suppression systems.

27. Section 75.1103–8 is revised to read as follows:

§ 75.1103–8 Automatic fire sensor and warning device systems; inspection and test requirements.

(a) Automatic fire sensor and warning device systems shall be examined at least once each shift when belts are operated as part of a production shift. A functional test of the warning signals shall be made at least once every seven days. Inspection and maintenance of such systems shall be by a qualified person.

(b) A record of the functional test conducted in accordance with paragraph (a) of this section shall be maintained by the operator and kept for a period of one year.

(c) Sensors shall be calibrated at intervals not to exceed 31 days in accordance with the manufacturer's calibration instructions. A record of the sensor calibrations shall be maintained by the operator and kept for a period of one year.

28. Section 75.1108 is revised to read as follows:

§ 75.1108 Approved conveyor belts.

(a) Until [insert date one year after date of publication of final rule in the **Federal Register**] conveyor belts shall be:

(1) Approved under Part 14 of this chapter; or

(2) Accepted under § 18.65 of this chapter.

(b) Effective [insert date one year after date of publication of final rule in the **Federal Register**] all conveyor belts purchased for use in underground coal

mines shall be approved under Part 14 of this chapter.

§ 75.1108–1 [Removed]

29. Remove § 75.1108–1.

Subpart R—Miscellaneous

30. Section 75.1731 is added to read as follows:

§ 75.1731 Maintenance of belt conveyors and belt conveyor entries.

(a) Damaged rollers and other malfunctioning belt conveyor components must be immediately repaired or replaced.

(b) Conveyor belts must be properly aligned to prevent the moving belt from rubbing against the structure or components.

(c) Noncombustible materials shall not be allowed to accumulate in the belt conveyor entry.

(d) Splicing of any approved conveyor belt must maintain flame-resistant properties of the belt.

[FR Doc. E8–13631 Filed 6–18–08; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 18

RIN 1219–AB60

Conveyor Belt Combustion Toxicity and Smoke Density

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Request for information.

SUMMARY: MSHA is requesting information from the public on smoke density and combustion toxicity tests that may be used to evaluate the fire hazard of conveyor belting and similar materials used in underground coal mines.

DATES: All comments must be received by midnight eastern standard time on August 18, 2008.

ADDRESSES:

Comments: Comments must be clearly identified with ''RIN 1219–AB60'' and may be sent to MSHA by any of the following methods:

(1) *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

(2) *Electronic mail: zzMSHA-Comments@dol.gov.* Include ''RIN 1219–AB60'' in the subject line of the message.

(3) *Facsimile:* (202) 693–9441. Include ''RIN 1219–AB60'' in the subject.

(4) *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209–3939.

(5) *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209–3939. Sign in at the receptionist's desk on the 21st floor.

Comments can be accessed electronically at *http://www.msha.gov* under the ''Rules and Regs'' link. MSHA will post all comments on the Internet without change, including any personal information provided. Comments may also be reviewed at the Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia. Sign in at the receptionist's desk on the 21st floor.

MSHA maintains a listserve that enables subscribers to receive e-mail notification when rulemaking documents are published in the **Federal Register**. To subscribe to the listserve, go to *http://www.msha.gov/subscriptions/subscribe.aspx.*

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Blvd, Room 2350, Arlington, Virginia 22209–3939, *silvey.patricia@dol.gov* (e-mail), (202) 693–9440 (voice), or (202) 693–9441 (Fax).

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 11 of the Mine Improvement and New Emergency Response (MINER) Act of 2006, the Secretary of Labor established the Technical Study Panel on the Utilization of Belt Air and the Composition and Fire Retardant Properties of Belt Materials in Underground Coal Mining (Panel) to conduct an independent scientific engineering review and to make recommendations with respect to the utilization of belt air and flame retardant properties of belt materials for use in underground coal mines. The Panel issued its final report on December 20, 2007. In a separate rulemaking published in today's **Federal Register**, MSHA is proposing to revise its approval test in existing regulations on flame-resistant conveyor belts for use in underground coal mines in accordance with section 101 of the Mine Act.

During the Technical Study Panel meeting in March, 2007, the Panel received information on hazards associated from the combustion products of burning conveyor belt. This information is related to combustion toxicity and smoke density generated from burning conveyor belt material. Those presenting the information to the Panel did not provide data on specific hazards or specific tests used to measure combustion toxicity and smoke density. Consequently, MSHA is requesting information on the tests, hazard evaluation studies and the application of data and methods for assessing the smoke density and toxic potency of smoke and other products produced from the combustion of conveyor belts and similar materials.

II. Information Request

MSHA is specifically soliciting information on:

1. Tests and related technical information including:

—The test method;
—The material or materials that the test is designed for;
—The advantages and disadvantages of the test;
—Research reports, technical studies and hazard assessment methods, incident reports involving the health and safety effects of smoke and combustion products on persons, conclusions, and technical opinions; and
—Costs of materials, labor, and the apparatus or equipment for conducting the tests.

2. Test methods used by international governmental agencies and other organizations (i.e., Australia, the European Economic Union) for smoke density or toxicity potency of smoke and other products produced from the of combustion of conveyor belting or similar materials. Please include:

—The health and safety benefits associated with compliance with the test methods and other requirements;
—The associated costs of compliance.

3. Requirements, standards and test methods for fire safety relating to smoke density and toxicity for materials such as electric cables where the test or information could be used to evaluate smoke density or the toxic potency of smoke and other products produced from combustion of conveyor belting or similar materials. MSHA is particularly interested in standards by private standard setting organizations such as the International Standards Organization and the National Fire Protection Association; and the States of California and New York. Please exclude information on materials that would not be relevant to underground coal mining, such as fabrics, wall board and surface coverings. Please report

compliance experience with the requirements, test methods or standards.

4. Scientific studies, data, and test methods on new technologies and materials with respect to halogenated materials and halogen-free materials that pertain to reducing the smoke producing properties and combustion toxicity of such materials.

5. New technologies and materials that result in reduced smoke and toxic products of combustion that would be relevant to conveyor belts and related materials for use in underground coal mines.

6. If such materials are commercially available and could be used in underground coal mines, what is the difference in cost and performance between conventional materials and these new materials?

Dated: June 11, 2008.

Richard E. Stickler,

Acting Assistant Secretary for Mine Safety and Health.

[FR Doc. E8–13633 Filed 6–18–08; 8:45 am]

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LIST OF PUBLIC LAWS

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