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WHEN: Tuesday, August 12, 2008
9:00 a.m.–12:30 p.m.

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Title 3—

The President

Proclamation 8275 of July 23, 2008

60th Anniversary of the Integration of the United States Armed Forces

By the President of the United States of America

A Proclamation

The United States is founded upon the belief that every person has unalienable rights and matchless value. Throughout our Nation's history, brave patriots have made great sacrifices to protect this ideal and to advance the cause of freedom around the world. On the 60th anniversary of the integration of the United States Armed Forces, we pay tribute to all our service members and veterans, and we underscore our Nation's commitment to equality.

On July 26, 1948, President Harry Truman signed Executive Order 9981, declaring ''that there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin.'' Today, members of our Armed Forces come from many different backgrounds and cultures and are answering the call to service with bravery, decency, and resolve.

Our Nation has long drawn strength from the diversity of its citizens. Groups such as the Buffalo Soldiers, the 442nd Regimental Combat Team, the Tuskegee Airmen, and the ''Borinqueneers'' risked their lives while proudly wearing the uniform of the United States. By performing their missions with integrity and honor, they highlighted the power of liberty, helped open the door of opportunity, and earned the respect and admiration of a grateful Nation.

On this anniversary, we celebrate the legacy of those who refused to allow adversity to diminish their spirit or extinguish their drive to help America live up to its promise of equality for all people. We also commemorate our veterans and service members whose noble and selfless actions have inspired generations of men and women to follow in their footsteps and made our country a more hopeful place.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim July 26, 2008, as the 60th Anniversary of the Integration of the United States Armed Forces and urge all Americans to observe this day with appropriate programs, ceremonies, and activities.

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

[FR Doc. 08–1468
Filed 07–25–08; 8:45 am]
Billing code 3195–W8–P

Rules and Regulations

Federal Register

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Monday, July 28, 2008

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

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AC15

Common Crop Insurance Regulations; Coverage Enhancement Option Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes the Coverage Enhancement Option (CEO) Provisions. The intended effect of this action is to restrict the effect of the current Pilot Coverage Enhancement Option to the 2008 and prior crop years and replace with revised permanent CEO provisions, and to better meet the needs of insured producers. The changes will apply for the 2009 and succeeding crop years.

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

FOR FURTHER INFORMATION CONTACT: William Klein, Risk Management, Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133–4676, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information are approved by OMB under control number 0563–0053.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, or a notice of loss and production information to determine an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1,000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure small entities are given the same opportunities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review of any determination or action by FCIC may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

On June 6, 2007, FCIC published a notice of proposed rulemaking in the **Federal Register** at 71 FR 4056–4061 to revise 7 CFR 457.172 Coverage Enhancement Option. Following publication of the proposed rule, the public was afforded 60 days to submit written comments and opinions. A total

of 3 sets of comments, with a total of 33 comments, were received from insurance providers and an insurance service organization. The comments received and FCIC's responses are as follows:

1. General

Comment: An insurance provider commented that the contractor hired by FCIC to review the Coverage Enhancement Option (CEO) looked at participation and loss experience on crops which had CEO available, and compared the experience of policyholders having only Multiple Peril Crop Insurance (MPCI) versus those that had both MPCI and CEO. While their study was inconclusive, concerns were noted regarding a possible increase of poor or high-risk producers using CEO to obtain a higher amount of coverage, particularly for apples and rice. The contractor recommended that CEO be terminated for all crops except Texas Citrus Trees. The commenter further stated that FCIC indicated they only plan to offer CEO on Texas Citrus Trees at this time, however, CEO could be expanded in the future. Based on the concerns expressed in this study, the commenter has serious reservations about any future expansion of CEO and recommends that it remain limited to Texas Citrus Trees. If FCIC considers expansion of CEO in the future, the commenter recommends it be reviewed with the insurance providers before expansion occurs.

Response: FCIC will consider the contractor's conclusions and all insurance experience should there be any consideration to expand CEO to additional crops in the future. However, there are currently no plans to expand CEO. FCIC will not undertake such expansion without significant research into the risk and feasibility of adding CEO to a crop, and determining whether it can be properly rated and underwritten.

Comment: An insurance service organization and an insurance provider recommend the title be modified to ''Coverage Enhancement Option,'' by deleting the words ''Pilot'' and ''Insurance Provisions.'' They believe this would make it clearer this option is available only to eligible Crop Provisions.

Response: FCIC has modified the title accordingly.

Comment: An insurance service organization and an insurance provider commented that they agree with the deletion of the order of priority provisions at the beginning of the option, because it is contained in the Basic Provisions. However, FCIC might consider if there is a need, either in an opening statement or in a numbered section of the option, to address the order of priority in the event of any contradictions between the CEO and other policy provisions. They further commented this reference might be necessary since options are not specifically mentioned in the order of priority in the Basic Provisions.

Response: FCIC has added a provision stating that if there is a conflict between the terms of CEO and any other provision of the policy, the terms of CEO control.

2. Section 1. Definitions

Comment: An insurance service organization and an insurance provider noted that several of the definitions in section 1 are set up on a unit basis such as: MPCI dollar amount of insurance, MPCI indemnity, MPCI indemnity factor, and Option Dollar Amount of Insurance. They further commented that they do not believe this is consistently applied and cite the definition for ''Total value of the insured crop.'' If FCIC uses a ''unit basis'' in the terms, it should consider a consistent phrase instead of the ''MPCI dollar amount of insurance'' and ''Option Dollar Amount of Insurance'' using the phrase ''for the unit,'' ''MPCI indemnity,'' ''for each unit,'' and ''MPCI indemnity factor,'' ''for a unit.''

Response: FCIC believes that the definitions in section 1 including MPCI dollar amount of insurance, MPCI indemnity, MPCI indemnity factor, and Option Dollar Amount of Insurance (now CEO dollar amount of insurance) are appropriately defined on a unit basis. FCIC has modified the term ''Total value of the insured crop'' by using the phrase ''for each unit'' and then adding provisions regarding summing the total of all units if there is more than one unit for the crop. Additionally, FCIC agrees with the commenters that the unit phrase needs to be consistent and has modified the provisions accordingly, making each unit phrase read, ''for each unit.''

Comment: An insurance service organization and an insurance provider commented that presumably the parenthetical details in the term ''MPCI dollar amount of insurance'' (the amount of insurance selected by you for dollar or similar plans of insurance or the amount determined by multiplying the production guarantee (per acre) times the price election, times the number of acres in the unit, times the MPCI coverage level you selected) are being added so the CEO would not have to be revised if it is subsequently expanded to cover more crop policies that are not insured under the Dollar Plan. The provisions would allow the guarantee to be converted to a dollar amount of insurance. They further commented that section 3(b)(2) of the Texas Citrus Tree Crop Provisions (the only crop to which the CEO is proposed to apply) refers to the amount of insurance per acre rather than ''for the unit'' as in this definition.

Response: The commenters are correct, the language in parentheses under the term ''MPCI dollar amount of insurance'' was added to allow for flexibility should CEO be expanded to crops under plans of insurance other than the dollar plan. The guarantee per acre as referenced in section 3(b)(2) of the Texas Citrus Tree Crop Provisions is summed up to the unit level as provided for in section 12 Settlement of Claim of those crop provisions. Additionally, FCIC has revised the definition of ''MPCI dollar amount of insurance'' to clarify that if the amount of insurance selected under the policy is on a per acre basis, the amount must be multiplied by the number of acres in the unit.

Comment: An insurance provider commented that the parenthetical details in the term ''MPCI dollar amount of insurance'' which reads in part ''* * * or the amount determined by multiplying the production guarantee (per acre) times the price election, times the number of acres in the unit, times the MPCI coverage level you selected * * *'' is not correct. The commenter pointed out that the production guarantee (per acre) already accounts for the MPCI level of coverage but this statement indicates that the production guarantee (per acre) will be multiplied by the price election, the number of acres and the MPCI coverage level again. The commenter recommends that FCIC either needs to start with the approved Actual Production History (APH) yield and multiply it by the MPCI coverage level or use the production guarantee (per acre) and not multiply it by the MPCI coverage level as it has already been taken into account to determine the production guarantee (per acre).

Response: FCIC has revised the provisions in the second half of the language contained in the parentheses to remove the reference to the coverage level selected because the commenter is correct that the definition of production guarantee (per acre) already incorporates the coverage level selected.

1 ''MPCI Indemnity'' references ''* * * replant and prevented planting indemnities * * *.'' The Basic Provisions as well as section 6(b) of the CEO reference these as being a ''payment'' rather than an ''indemnity.''

The commenter recommended that the word ''indemnities'' in the phrase be changed to ''payments.''

Response: FCIC has revised the provision accordingly.

Comment: An insurance service organization noted that FCIC was inconsistent in using the word ''percentage'' and ''percent.'' The commenter cited the use of the word ''percentage'' in the definition of ''Option coverage level'' and the use of the word ''percent'' option coverage level in sections 2 and 4.

Response: FCIC has modified sections 2 and 4 accordingly to use the word ''percentage'' consistently in the phrase ''option coverage level.''

Comment: An insurance service organization and an insurance provider recommended modifying the term ''Option coverage level'' in section 1 to ''CEO Coverage Level,'' or something similar. They further commented that this might more closely match the actuarial documents which currently show ''(CE) Coverage Enhancement'' in the Common Option Factor Table. They suggested that this could also be done for the definition of ''Option Dollar Amount of Insurance'' making it the ''CEO Dollar Amount of Insurance,'' and the definitions would then need to be rearranged alphabetically.

Response: FCIC has replaced the ''Option coverage level'' and ''Option Dollar Amount of Insurance'' with ''CEO Coverage Level'' and ''CEO Dollar Amount of Insurance'' and rearranged the terms alphabetically. FCIC has also replaced the terms as they appear in the remaining sections of the Coverage Enhancement Option provisions.

Comment: An insurance service organization and an insurance provider commented that the term ''Total value of the insured crop'' is defined as ''The value of the crop that is determined by dividing the MPCI dollar amount of insurance by the MPCI coverage level.'' However, the ''MPCI dollar amount of insurance'' is defined as being on a unit basis rather than on a crop basis.

Response: FCIC has modified the definition to clarify how the value for the crop is obtained using the separate units so it now reads, ''The value of the crop that is determined by dividing the MPCI dollar amount of insurance for each unit by the MPCI coverage level and summing the total for all units.''

Comment: An insurance service organization and an insurance provider commented that while most people should understand that ''* * * an option coverage level percent in the actuarial documents'' refers to an option coverage level for the CEO and does not include other options that might be available for a crop, still this could be reworded to be clearer. They further commented that the ''Option Coverage Level'' is defined as the ''coverage level percentage selected * * *'' so ''percent'' could be deleted from this section 2 reference. Finally they suggested FCIC add a reference in the definition of ''Option coverage level'' that it can be found in the actuarial documents, so that phrase does not have to be repeated in sections 2, 3, and 4.

Response: As stated above, FCIC has modified the term ''Option Coverage Level'' to read ''CEO coverage level,'' and has used this term, ''CEO coverage level,'' to clarify the provisions in section 2. FCIC has also revised the definition to clarify that the CEO coverage level is contained on the actuarial documents where CEO is available. FCIC has removed the words ''percentage'' or ''percent'' in sections 2, 3, and 4 because the terms are no longer needed. However, when determining eligibility, there still must be reference to the actuarial documents but FCIC has revised these provisions for clarification.

Comment: An insurance provider commented that it disagrees with the second sentence added in the definition of ''Option coverage level'' which indicates this level effectively becomes the coverage level under the MPCI policy when losses exceed the deductible. This is simply not true, and gives the policyholder the false impression their coverage level under the MPCI policy is increased to the option coverage level when a loss occurs. The MPCI coverage level remains the same regardless of the option coverage level and it is the trigger point for a loss for both MPCI and CEO. The commenter states that this sentence is misleading and recommends that it be removed.

Response: The Proposed Rule states the option coverage level ''effectively'' becomes the coverage level under the MPCI policy when losses exceed the deductible. For example, if an insured had a 50 percent MPCI coverage level and a 75 percent CEO coverage level, the CEO indemnity would not trigger until the 50 percent MPCI coverage level was penetrated; however, in the case of a total loss, the indemnity for the policy would, in fact, be at the 75 percent CEO coverage level. However, this could be misleading because the CEO coverage level only becomes the effective MPCI coverage level when there is a total loss. Therefore, FCIC has modified the sentence to read, ''This percentage is applicable under the MPCI/CEO policy when losses under such policy exceed the MPCI deductible and an indemnity is owed.''

3. Section 3

Comment: An insurance service organization and an insurance provider commented that it does not seem necessary to add after the requirement to ''* * * have an MPCI policy in force for the insured crop * * *'' the phrase ''* * * in accordance with the applicable Crop Provisions for the insured crop.'' They questioned if it is possible to have an MPCI policy in force that is NOT in accordance with the Crop Provisions.

Response: FCIC has revised the provisions to specify that the insured must have a MPCI policy in force and comply with all terms of the policy.

Comment: An insurance service organization and an insurance provider recommended that FCIC consider rearranging the parenthetical phrase in section 3 to read ''* * * for the insured crop (the insured type for citrus fruit, citrus trees, and stonefruit) * * *'' The phrase ''as applicable,'' as shown in the Proposed Rule, seems unnecessary since the insured type is applicable for those three crop policies.

Response: The phrase ''as applicable,'' is not superfluous. FCIC inadvertently omitted the additional phrase ''or other crops.'' Therefore, FCIC has modified the provision to read ''(or for citrus fruit, citrus trees, and stonefruit, or other crops, as applicable, the insured type).'' This language allows for the flexibility of bringing other crops under CEO in those instances where the insured is allowed to insure by type.

4. Section 4

Comment: An insurance service organization and an insurance provider commented that FCIC should consider moving the first sentence of section 4 to section 3 so all the requirements for CEO coverage are grouped together, and consider rearranging as follows: ''3. To be eligible for this coverage, you must: ''(a) Have an MPCI policy in force for the insured crop (insured type for citrus fruit, citrus trees and stonefruit); and ''(b) Elect this option in writing and choose an option coverage level on or before the sales closing date for the insured crop.'' Additionally they questioned if it is necessary to repeat the phrase ''* * * for the insured crop.''

Response: FCIC has added the provisions of the first sentence in section 4 to section 3(b). FCIC has also added ''CEO,'' and ''for the insured crop'' in the first sentence of section 3 which now reads, ''To be eligible for CEO coverage on the insured crop, you must: * * *'' However, because the

requirements to have an MPCI policy in effect and elect a CEO coverage level are specific to the insured crop, the phrase ''for the insured crop'' is not removed from sections 3(a) and 3(b).

Comment: An insurance service organization and an insurance provider commented that FCIC needs to revise the last phrase of the remaining sentence in section 4 to read ''* * * or until it is cancelled by you or terminated by us * * *'' so it does not appear to say that the CEO remains in effect even if it is cancelled or terminated.

Response: FCIC has revised the provisions accordingly.

Comment: An insurance provider commented that FCIC might want to consider adding the requirement that the insured must choose an option coverage level which is at least five percent higher than the underlying MPCI coverage level.

Response: FCIC has added the requirement that the CEO coverage level selected must be at least five percent higher than the underlying MPCI coverage level to the provisions contained in section 3(b) as revised.

5. Section 5

Comment: An insurance service organization and an insurance provider commented that FCIC should consider combining section 5 with section 2 since section 5 addresses the fact that CAT policies are NOT eligible for the CEO.

Response: FCIC agrees that section 5 could be combined with another section, but believes it should more appropriately be combined with section 3 rather than section 2. Therefore, FCIC has combined section 3 with provisions from the previous section 5 to include the requirement that insureds select a coverage level greater than CAT because it is a condition of eligibility.

6. Section 6

Comment: An insurance provider commented that the first sentence of section 6 reads ''* * * your deductible will disappear in proportion to the amount of such loss and indemnity paid * * *.'' The language appears to give the impression that the deductible is disappearing or getting smaller as a loss occurs, but actually, it remains the same (difference between 1 minus the applicable MPCI coverage level). The deductible remains the same even after a loss occurs.

Response: The commenter is correct that the deductible under the MPCI policy does not actually disappear. However, CEO is intended to provide coverage for losses that would otherwise not be payable because of the deductible. The provision has been revised to so clarify and to provide an example that demonstrates how such coverage works when the loss is greater than the MPCI deductible but less that a total loss.

Comment: An insurance service organization and an insurance provider commented that the opening paragraph in section 6 ends ''* * * The amount of the additional indemnity and related terms and conditions are described below'' but only (c) and (d) address the CEO indemnity. Section 6(b) addresses replant and prevented planting payments so it might fit under the ''indemnity'' heading, but (a) and (e) appear to belong elsewhere.

Response: The commenters are correct that section 6 contains a mixture of provisions that are not directly related. Some provisions only relate to the general coverage provided under CEO and its relationship to the MPCI policy and FCIC has left those provisions in section 6. However, those provisions relating to how indemnities are paid in relation to the MPCI policy have been moved to a new section 7. FCIC has also moved section 6(e) to be the new section 5 in response to other comments that suggest the premium provisions should be separated. The provisions in section 7 in the proposed rule have been moved to a new section 8.

Comment: An insurance provider questioned if an insured had prevented planting acreage, would CEO premium be charged for additional CEO coverage on such acreage. The commenter added that the way section 6(e) is written it would indicate there would be an MPCI dollar amount of coverage provided for prevented planting coverage.

Response: The new section 5 specifies how premium is calculated. It is based on the total liability under the MPCI policy and the total liability under CEO. This is because this is what is at risk when the insured enters into the policy. The fact that the insured may subsequently be paid a prevented planting payment on some of the insured acreage does not eliminate the fact that the total liability was originally insured under the policy. Section 6(b) in the Final Rule clarifies that any replant or prevented planting payment that is payable under the MPCI policy will not be affected by the CEO Option.

Comment: An insurance service organization and an insurance provider commented that subsection 6(e) addresses the calculation of the premium under CEO rather than the indemnity, so perhaps it should be a separate section (ahead of the indemnity section) since it would apply to all policies with the CEO even if there is no CEO indemnity.

Response: As stated above, FCIC has made the previous section 6(e) the new section 5. This places the provisions in a more logical order and improves the clarity of the provisions.

Comment: An insurance service organization and an insurance provider commented that the deletion of subsections 6(b) and (c) in the current provisions, proposed rule section 7, is not appropriate since those provisions are still needed to determine the option dollar amount of insurance.

Response: The commenters are correct that the previous subsections 6(b) and (c) served to identify how the option dollar amount of insurance is determined. FCIC tried to simplify the provisions but in the process it did not adequately identify how the option dollar amount of insurance (now CEO dollar amount of insurance) is determined. Therefore, FCIC has added two additional steps in the current section 8 to clarify this determination. FCIC has also added two additional steps in the Example in section 8 for clarification.

List of Subjects in 7 CFR Part 457

Crop insurance, Coverage Enhancement Option.

Final Rule

■ Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 457, Common Crop Insurance Regulations, for the 2009 and succeeding crop years as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(p).

■ 2. Add a new § 457.172 to read as follows:

§ 457.172 Coverage Enhancement Option.

The Coverage Enhancement Option for the 2009 and succeeding crop years are as follows:

FCIC policies: United States Department of Agriculture, Federal Crop Insurance Corporation.

Reinsured policies: (Appropriate title for insurance provider).

Both FCIC and reinsured policies: Coverage Enhancement Option.

Both FCIC and reinsured policies:

Coverage Enhancement Option

1. Definitions

CEO coverage level—The coverage level percentage contained in the

actuarial documents where the Coverage Enhancement Option (CEO) is available and selected by you. This percentage is applicable under the combined MPCI/CEO policy when losses under the MPCI policy exceed the deductible and an indemnity is owed.

CEO dollar amount of insurance—The value of the additional insurance coverage for each unit provided by the CEO, which is determined by multiplying the CEO coverage level by the total value of the insured crop and subtracting the MPCI dollar amount of insurance.

MPCI—Multiple Peril Crop Insurance, the plan of insurance offered by the Federal Crop Insurance Corporation as published at 7 CFR part 457.

MPCI coverage level—The coverage level percentage you selected in the underlying MPCI policy to which CEO is attached.

MPCI dollar amount of insurance—The value of the insurance coverage for each unit provided under the MPCI policy (the amount of insurance selected by you for dollar or similar plans of insurance, multiplied by the number of acres in the unit if such amount of insurance is on a per acre basis, or the amount determined by multiplying your production guarantee (per acre), times the price election, times the number of acres in the unit).

MPCI indemnity—The indemnity determined for each unit under the MPCI policy to which CEO is attached, not including replant and prevented planting payments or any indemnity payable under CEO.

MPCI indemnity factor—A factor determined by dividing the MPCI indemnity by the MPCI dollar amount of insurance for each unit. This factor is used to ensure that the indemnity paid under the CEO is proportional to the amount of loss and indemnity paid under the MPCI policy.

Total value of the insured crop—The value of the crop that is determined by dividing the MPCI dollar amount of insurance for each unit by the MPCI coverage level, and summing the total for all units.

2. CEO is only available for insured crops where the actuarial documents contain a CEO coverage level. If there is a conflict between the terms of CEO and any other provision of your policy, the terms of the CEO will control.

3. To be eligible for CEO coverage on the insured crop, you must:

(a) Have an MPCI policy in force for the insured crop (or for citrus fruit, citrus trees, and stone fruit or other crops, as applicable, the insured type) and comply with all terms and conditions of such policy.

(b) Elect CEO in writing and choose a CEO coverage level (at least 5 percent higher than the MPCI coverage level), by the sales closing date for the insured crop.

(c) Elect a level of coverage greater than the Catastrophic Risk Protection (CAT) coverage level and a 100 percent price election. CEO is not available for the CAT level of coverage.

4. CEO is continuous and will remain in effect for as long as you continue to have a MPCI policy in effect for the insured crop, the actuarial documents contain a CEO coverage level, or until it is canceled by you or terminated by us on or before the cancellation or termination date, as applicable.

5. The premium for your policy will be determined by:

(a) Totaling the MPCI dollar amount of insurance and the CEO dollar amount of insurance; and

(b) Multiplying the result of section 5(a) by the premium rate for the insured crop applicable to your MPCI coverage level

6. With respect to the coverage provided under CEO:

(a) All acreage of the insured crop insured under your MPCI policy will be covered under the CEO;

(b) The amount of any replant or prevented planting payment that is payable under the MPCI policy will not be affected by the CEO;

(c) An indemnity will be payable under the CEO only after the underlying MPCI deductible is met and an MPCI indemnity is paid; and

(d) The total indemnity for each unit (MPCI coverage plus CEO) cannot exceed the combination of both the MPCI and CEO dollar amounts of insurance.

7. If you elect CEO and a MPCI indemnity is paid on any unit, CEO will pay a portion of the loss not paid under the deductible of the MPCI policy depending on the CEO coverage level you select (For example, if you selected a 50 percent MPCI coverage level, selected an 85 percent CEO coverage level, and had 60 percent loss of the insured crop, the total amount of indemnity paid under both the MPCI policy and the CEO would be equal to approximately 51 percent of the total value of the insured crop). See the example in section 8.

8. In addition to the settlement of claim section for the applicable Crop Provisions, your indemnity will be computed for each unit as follows:

(a) Determine the MPCI indemnity factor;

(b) Determine the total value of the insured crop;

(c) Determine the CEO dollar amount of insurance; and

(d) Multiply the MPCI indemnity factor times the CEO dollar amount of insurance to determine the indemnity under the CEO.

Example:

Assume a policy with one unit; an MPCI coverage level of 50 percent and a CEO coverage level of 85 percent; 100% share; a $120,000 MPCI dollar amount of insurance; and a $72,000 payable indemnity under the MPCI portion of the policy.

Your indemnity would be calculated as follows:

(a) $72,000 MPCI loss ÷ by $120,000 MPCI dollar amount of insurance = .60 MPCI indemnity factor;

(b) $120,000 MPCI dollar amount of insurance, divided by the MPCI coverage level of .50 results in $240,000 total value of the insured crop;

(c) $240,000 total value of the insured crop multiplied by the CEO coverage level .85, equals $204,000, and subtracting $120,000 MPCI dollar amount of insurance equals $84,000 CEO dollar amount of insurance;

(d) .60 MPCI indemnity factor × $84,000 CEO dollar amount of insurance = $50,400 unit indemnity under the CEO.

Note: The total unit indemnity is $122,400 ($72,000 MPCI indemnity plus $50,400 CEO indemnity).

Signed in Washington, DC, on July 22, 2008.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E8–17187 Filed 7–25–08; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EE–RM/STD–01–350]

RIN 1904–AA78

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Furnaces and Boilers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; technical amendment.

SUMMARY: This final rule clarifies the standards that are applicable to residential furnaces and boilers that were not subject to a final rule published by the Department of Energy

on November 19, 2007. Additionally, today's final rule codifies in the Department's regulations the requirements that are applicable to residential boilers as established in the Energy Independence and Security Act of 2007.

DATES: This technical amendment is effective August 27, 2008.

FOR FURTHER INFORMATION CONTACT: Mohammed Khan, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–7892, e-mail: *Mohammed.Khan@ee.doe.gov*; or Christopher Calamita, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7432, e-mail: *Christopher.Calamita@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: On November 19, 2007, DOE published a final rule in which it amended the energy conservation standards for non-weatherized gas furnaces, weatherized gas furnaces, mobile home gas furnaces, oil-fired furnaces, gas-fired hot-water boilers, and oil-fired hot-water boilers. (72 FR 65136.) The November 19, 2007 final rule established a compliance date of November 19, 2015, for the amended standards.

In the notice of proposed rulemaking, DOE noted that gas steam boilers, oil-fired steam boilers, weatherized oil-fired furnaces, and mobile home oil-fired furnaces were not subject to the rulemaking. (71 FR 59204, 59214; October 6, 2006.) Standards applicable to gas steam boilers, oil-fired steam boilers, weatherized oil-fired furnaces, and mobile home oil-fired furnaces in effect prior to the November 19, 2007 final rule remained in effect following the November 19, 2007 final rule.

In the November 19, 2007 final rule, DOE amended the regulatory text that specifies the energy conservation standards for residential furnaces and boilers (10 CFR 430.32(e)) by adding a table containing amended standards applicable to non-weatherized gas furnaces, weatherized gas furnaces, mobile home gas furnaces, non-weatherized oil-fired furnaces, gas-fired hot-water boilers, and oil-fired hot-water boilers, manufactured on or after November 19, 2015. The regulatory text as amended by the November 19, 2007 final rule presented the required standards for residential furnaces and boilers in two tables. The first table presented the standards for all subject residential furnaces and boilers. The second table presented only the standards amended by the November 19, 2007 final rule, which as established, are applicable to the specified products that are manufactured on and after November 19, 2015. (72 FR 65169.)

Subsequently, on December 19, 2007, the Energy Independence and Security Act of 2007 (EISA 2007) was signed into law and included amended energy conservation standards and design requirements for residential boilers. (Pub. L. 110–140) Specifically, section 303 of EISA 2007 amended section 325(f)(3)(A)–(B) of the Energy Policy and Conservation Act (EPCA) to establish energy conservation standards and design requirements for gas-fired hot water boilers, gas-fired steam boilers, oil-fired hot water boilers, oil-fired steam boilers, and electric hot water boilers. (42 U.S.C. 6295(f)(3)(A)–(B)) EISA 2007 includes minimum annual fuel utilization efficiency (AFUE) requirements for gas-fired hot water and oil-fired hot water boilers, which supersede those established in the November 19, 2007, final rule. The minimum AFUE requirements for gas-fired hot water boilers are the same as those in the November 19, 2007, final rule.

The design requirements added by EISA 2007 prohibit constant burning pilot lights for gas-fired hot water boilers and gas-fired steam boilers and require an automatic means for adjusting the water temperature for gas-fired hot water boilers, oil-fired hot water boilers, and electric hot water boilers. Both the energy conservation standards and the design requirements for these five classes of residential boilers are applicable to residential boilers manufacturers on or after September 1, 2012. DOE notes this effective date supersedes the later effective date specified by the November 19, 2007 final rule.

In order to clarify the applicability of standards for residential furnaces and boilers following the November 19, 2007 final rule and EISA 2007, DOE is amending the regulatory text. Today's final rule presents the standards grouped by product (i.e., furnaces or boilers), and by compliance date. Today's final rule will allow manufacturers to reference an applicable standard by product and compliance date, and should make it easier for a manufacturer to determine the appropriate standard for a product. Today's final rule does not amend the standards applicable to residential furnaces and boilers as established in the November 19, 2007 final rule, except to the extent that standards were amended by EISA 2007.

Additionally, DOE notes that in the preamble of the November 19, 2007, final rule, DOE indicated that the Environmental Protection Agency (EPA) is mandating a phase-out of hydrofluorocarbon (HFC) refrigerants and hydrochlorofluorocarbon (HCFC) refrigerants. (72 FR 65149) This statement was in error. The EPA is mandating a phase-out of HCFC refrigerants, but not HFC refrigerants. (58 FR 65018; December 10, 1993) DOE realizes this inadvertent statement may have caused confusion within the industry. DOE notes that HFC refrigerants are the choice of the residential air conditioning industry to replace HCFC refrigerants that will be phased out.[1] This error did not impact the final analyses relied on in establishing the standards for the final rule.

DOE has determined, pursuant to 5 U.S.C. 553(b)(B), that prior notice and an opportunity for public comment on this final rule are unnecessary. The reorganization of the tables in the CFR is not a substantive change, and the public would have no particular interest in providing comments. In addition, codification of standards for certain residential boilers established in law by EISA involves no exercise of discretion or interpretation by DOE for the public to comment upon. DOE, therefore, finds that good cause exists to waive prior notice and an opportunity to comment for this rulemaking. In addition, because there is no requirement for publication of a notice of proposed rulemaking, the analytical provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply to this rulemaking.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Issued in Washington, DC, on July 15, 2008.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

■ For the reasons set forth in the preamble, part 430 of Title 10, Code of Federal Regulations, is amended to read as follows:

[1] See, Acceptable Substitutes in Household and Light Commercial Air Conditioning, The U.S. Environmental Protection Agency. *http://www.epa.gov/ozone/snap/refrigerants/lists/homeac.html*.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Section 430.32 is amended by revising paragraph (e) to read as follows:

§ 430.32 Energy and water conservation standards and their effective dates.

* * * * *

(e) *Furnaces and boilers.* (1) *Furnaces.* (i) The Annual Fuel Utilization Efficiency (AFUE) of residential furnaces manufactured before November 19, 2015, shall not be less than the following:

Product class	AFUE [1] (percent)
(A) Furnaces (excluding classes noted below)	78
(B) Mobile Home furnaces	75
(C) Small furnaces (other than those designed solely for installation in mobile homes) having an input rate of less than 45,000 Btu/hr	
(1) Weatherized (outdoor)	78
(2) Non-weatherized (indoor)	78

[1] Annual Fuel Utilization Efficiency, as determined in § 430.23(n)(2) of this part.

(ii) The AFUE of residential furnaces manufactured on or after November 19, 2015, shall not be less than the following:

Product class	AFUE [1] (percent)
(A) Non-weatherized gas furnaces	80
(B) Weatherized gas furnaces	81
(C) Mobile home oil-fired furnaces	75
(D) Mobile home gas furnaces	80
(E) Non-weatherized oil-fired furnaces	82
(F) Weatherized oil-fired furnaces	78

[1] Annual Fuel Utilization Efficiency, as determined in § 430.23(n)(2) of this part.

(2) *Boilers.* (i) The AFUE of residential boilers manufactured before September 1, 2012, shall not be less than the following:

Product class	AFUE [1] (percent)
(A) Boilers (excluding gas steam)	80
(B) Gas steam boilers	75

[1] Annual Fuel Utilization Efficiency, as determined in § 430.22(n)(2) of this part.

(ii) Except as provided in paragraph (e)(2)(iv) of this section, the AFUE of residential boilers, manufactured on or after September 1, 2012, shall not be less than the following and must comply with the design requirements as follows:

Product class	AFUE [1] (percent)	Design requirements
(A) Gas-fired hot water boiler	82	Constant burning pilot not permitted. Automatic means for adjusting water temperature required (except for boilers equipped with tankless domestic water heating coils).
(B) Gas-fired steam boiler	80	Constant burning pilot not permitted.
(C) Oil-fired hot water boiler	84	Automatic means for adjusting temperature required (except for boilers equipped with tankless domestic water heating coils).
(D) Oil-fired steam boiler	82	None.
(E) Electric hot water boiler	None	Automatic means for adjusting temperature required (except for boilers equipped with tankless domestic water heating coils).

[1] Annual Fuel Utilization Efficiency, as determined in § 430.22(n)(2) of this part.

(iii) *Automatic means for adjusting water temperature.* (A) The automatic means for adjusting water temperature as required under paragraph (e)(2)(ii) of this section must automatically adjust the temperature of the water supplied by the boiler to ensure that an incremental change in inferred heat load produces a corresponding incremental change in the temperature of water supplied.

(B) For boilers that fire at a single input rate, the automatic means for adjusting water temperature requirement may be satisfied by providing an automatic means that allows the burner or heating element to fire only when the means has determined that the inferred heat load cannot be met by the residual heat of the water in the system.

(C) When there is no inferred heat load with respect to a hot water boiler, the automatic means described in this paragraph shall limit the temperature of the water in the boiler to not more than 140 degrees Fahrenheit.

(D) A boiler for which an automatic means for adjusting water temperature is required shall be operable only when the automatic means is installed.

(iv) A boiler that is manufactured to operate without any need for electricity or any electric connection, electric gauges, electric pumps, electric wires, or electric devices is not required to meet the AFUE or design requirements applicable to the boiler requirements of paragraph (e)(2)(ii) of this section, but must meet the requirements of paragraph (e)(2)(i) of this section, as applicable.

* * * * *

[FR Doc. E8–17222 Filed 7–25–08; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM08–7–000; Order No. 713]

Modification of Interchange and Transmission Loading Relief Reliability Standards; and Electric Reliability Organization Interpretation of Specific Requirements of Four Reliability Standards

Issued July 21, 2008.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: Pursuant to section 215 of the Federal Power Act, the Federal Energy Regulatory Commission (Commission) approves five of six modified Reliability Standards submitted to the Commission for approval by the North American

Electric Reliability Corporation (NERC). The Commission directs NERC to submit a filing that provides an explanation regarding one aspect of the sixth modified Reliability Standard submitted by NERC. The Commission also approves NERC's proposed interpretations of five specific requirements of Commission-approved Reliability Standards.

DATES: *Effective Date:* This rule will become effective August 27, 2008.

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SUPPLEMENTARY INFORMATION:

Final Rule

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Before Commissioners: Joseph T. Kelliher, Chairman; Suedeen G. Kelly, Marc Spitzer, Philip D. Moeller, and Jon Wellinghoff.

1. Pursuant to section 215 of the Federal Power Act (FPA),[1] the Commission approves five of six modified Reliability Standards submitted to the Commission for review by the North American Electric Reliability Corporation (NERC). The five Reliability Standards pertain to interchange scheduling and coordination. The Commission directs NERC to submit a filing that provides an explanation regarding one aspect of the sixth modified Reliability Standard submitted by NERC, which pertains to transmission loading relief (TLR) procedures. The Final Rule also approves interpretations of five specific requirements of Commission-approved Reliability Standards.

I. Background

A. EPAct 2005 and Mandatory Reliability Standards

2. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (ERO) to propose Reliability Standards for the Commission's review. Once approved by the Commission, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[2]

3. Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO[3] and,

[1] 16 U.S.C. 824o (2006).

[2] *See* FPA 215(e)(3), 16 U.S.C. 824o(e)(3) (2006).

[3] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC

subsequently, certified NERC as the ERO.[4] On April 4, 2006, as modified on August 28, 2006, NERC submitted to the Commission a petition seeking approval of 107 proposed Reliability Standards. On March 16, 2007, the Commission issued a Final Rule, Order No. 693, approving 83 of these 107 Reliability Standards and directing other action related to these Reliability Standards.[5] In addition, pursuant to section 215(d)(5) of the FPA, the Commission directed NERC to develop modifications to 56 of the 83 approved Reliability Standards.

4. In April 2007, the Commission approved delegation agreements between NERC and each of the eight Regional Entities, including the Western Electricity Coordinating Council (WECC).[6] Pursuant to such agreements, the ERO delegated responsibility to the Regional Entities to carry out compliance monitoring and enforcement of the mandatory, Commission-approved Reliability Standards. In addition, the Commission approved as part of each delegation agreement a Regional Entity process for developing regional Reliability Standards.

5. NERC's Rules of Procedure provide that a person that is ''directly and materially affected'' by Bulk-Power System reliability may request an interpretation of a Reliability Standard.[7] The ERO's ''standards process manager'' will assemble a team with relevant expertise to address the clarification and also form a ballot pool. NERC's Rules provide that, within 45 days, the team will draft an interpretation of the Reliability Standard, with subsequent balloting. If approved by ballot, the interpretation is appended to the Reliability Standard and filed with the applicable regulatory authority for regulatory approval.[8]

B. NERC Filings

6. As explained in the Notice of Proposed Rulemaking (NOPR),[9] this rulemaking proceeding consolidates and addresses three NERC filings.

7. On December 19, 2007, NERC submitted for Commission approval five interpretations of requirements in four Commission-approved Reliability Standards: BAL–001–0 (Real Power Balancing Control Performance), Requirement R1; BAL–003–0 (Frequency Response and Bias), Requirement R3; BAL–005–0 (Automatic Generation Control), Requirement R17; and VAR–002–1 (Generator Operation for Maintaining Network Voltage Schedules), Requirements R1 and R2.[10] On April 15, 2008, NERC submitted a petition to withdraw the earlier request for approval of NERC's interpretation of BAL–003–0, Requirement R17, and instead to approve a second interpretation of Requirement R17 submitted by NERC in the April 15 filing.

8. On December 21, 2007, NERC submitted for Commission approval modifications to Reliability Standard IRO–006–4 (Reliability Coordination—Transmission Loading Relief) that applies to balancing authorities, reliability coordinators, and transmission operators. According to NERC, the modifications ''extract'' from the Reliability Standard the business practices and commercial requirements from the current IRO–006–3 Reliability Standard. The business practices and commercial requirements have been transferred to a North American Energy Standards Board (NAESB) business practices document. The NAESB business practices and commercial requirements have been included in Version 001 of the NAESB Wholesale Electric Quadrant (WEQ) Standards which NAESB filed with the Commission on the same day, December 21, 2007.[11] Further, the modified Reliability Standard includes changes directed by the Commission in Order No. 693 related to the appropriateness of using the TLR procedure to mitigate violations of interconnection reliability operating limits (IROL).[12]

9. On December 26, 2007, NERC submitted for Commission approval modifications to five Reliability Standards from the ''Interchange Scheduling'' (INT) group of Reliability Standards: INT–001–3 (Interchange Information); INT–004–2 (Dynamic Interchange Transaction Modifications); INT–005–2 (Interchange Authority Distributes Arranged Interchange); INT–006–2 (Response to Interchange Authority); and INT–008–2 (Interchange Authority Distributes Status). NERC stated that the modifications to INT–001–3 and INT–004–2 eliminate waivers requested in 2002 under the voluntary Reliability Standards regime for entities in the WECC region. According to NERC, modifications to INT–005–2, INT–006–2, and INT–008–2 adjust reliability assessment time frames for proposed transactions within WECC.[13]

10. Each Reliability Standard that the ERO proposed to interpret or modify in this proceeding was approved by the Commission in Order No. 693.

C. Notice of Proposed Rulemaking

11. On April 21, 2008, the Commission issued a NOPR that proposed to approve the six modified Reliability Standards submitted to the Commission for approval by NERC and to approve NERC's proposed interpretations of five specific requirements of Commission-approved Reliability Standards. On May 16, 2008, the Commission supplemented the NOPR,[14] proposing to approve NERC's modified interpretation of Reliability Standard BAL–005–0, Requirement R17.

12. In response to the NOPR, comments were filed by the following eight interested persons: Alcoa Inc. (Alcoa); Independent Electricity System Operator of Ontario (IESO); ISO/RTO Council; International Transmission Company, Michigan Electric Transmission Company, LLC and Midwest LLC (collectively, ITC); Lafayette Utilities and the Louisiana Energy and Power Authority (Lafayette

Stats. & Regs. ¶ 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[4] *North American Electric Reliability Corp.*, 116 FERC ¶ 61,062 (ERO Certification Order), *order on reh'g* & compliance, 117 FERC ¶ 61,126 (ERO Rehearing Order) (2006), *appeal docketed sub nom. Alcoa, Inc.* v. *FERC*, No. 06–1426 (DC Cir. Dec. 29, 2006).

[5] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, FERC Stats. & Regs. ¶ 31,242, *order on reh'g*, Order No. 693–A, 120 FERC ¶ 61,053 (2007).

[6] *See North American Electric Reliability Corp.*, 119 FERC ¶ 61,060, *order on reh'g*, 120 FERC ¶ 61,260 (2007).

[7] NERC Rules of Procedure, Appendix 3A (Reliability Standards Development Procedure), at 26–27.

[8] We note that the NERC board of trustees approved the interpretations of Reliability Standards submitted by NERC for approval in this proceeding. However, Appendix 3A of NERC's Rules of Procedure is silent on NERC board of trustees approval of interpretations before they are filed with the regulatory authority. The Commission is concerned that NERC's Rules of Procedure do not properly reflect this approval step.

[9] *Modification of Interchange and Transmission Loading Relief Reliability Standards; and Electric Reliability Organization Interpretation of Specific Requirements of Four Reliability Standards,* Notice of Proposed Rulemaking, 73 FR 22,856 (Apr. 28, 2008), FERC Stats. & Regs. ¶ 32,632 (2008) (NOPR).

[10] In its filing, NERC identifies the Reliability Standards together with NERC's proposed interpretations as BAL–001–0a, BAL–003–0a, BAL–005–0a, and VAR–002–1a.

[11] NAESB December 21, 2007 Filing, Docket No. RM05–5–005.

[12] An IROL is a system operating limit that, if violated, could lead to instability, uncontrolled separation, or cascading outages that adversely impact the reliability of the Bulk-Power System.

[13] The Reliability Standards and interpretations addressed in this Final Rule are available on the Commission's eLibrary document retrieval system in Docket No. RM08–7–000 and also on NERC's Web site, *http://www.nerc.com.*

[14] *Modification of Interchange and Transmission Loading Relief Reliability Standards; and Electric Reliability Organization Interpretation of Specific Requirements of Four Reliability Standards, Supplemental Notice of Proposed Rulemaking,* 73 FR 30,326 (May 27, 2008), FERC Stats. & Regs. ¶ 32,635 (2008) (Supplemental NOPR).

and LEPA); NERC; NRG Companies; [15] and Southern Company Services, Inc. (Southern).

II. Discussion

A. NERC's December 19, 2007 Filing: Interpretations of Reliability Standards

13. As mentioned above, NERC submitted for Commission approval interpretations of five specific requirements in four Commission-approved Reliability Standards.

1. BAL–001–0—Real Power Balancing Control Performance and BAL–003–0—Frequency Response and Bias

14. The purpose of Reliability Standard BAL–001–0 is to maintain interconnection steady-state frequency within defined limits by balancing real power demand and supply in real-time.[16] It uses two averages, covering the one-minute and ten-minute area control error (ACE) performance (CPS1 and CPS2, respectively), as measures for determining compliance with its four Requirements. Requirement R1 of BAL–001–0 obligates each balancing authority, on a rolling twelve-month basis, to maintain its clock-minute averages of ACE, modified by its frequency bias and the interconnection frequency, within a specific limit based on historic performance.[17]

15. The purpose of Reliability Standard BAL–003–0 is to ensure that a balancing authority's frequency bias setting is accurately calculated to match its actual frequency response. Frequency bias may be calculated in a number of ways provided that the frequency bias is as close as practical to the frequency response. Requirement R3 of BAL–003–0 requires each balancing authority to operate its automatic generation control on ''tie line frequency bias,'' unless such operation is adverse to system interconnection reliability.[18]

a. Proposed Interpretation

16. In its December 19, 2007 filing, NERC explained that WECC requested the ERO to provide a formal interpretation whether the use of WECC's existing automatic time error correction factor that is applied to the net interchange portion of the ACE equation violates Requirement R1 of BAL–001–0 or Requirement R3 of BAL–003–0.

17. In response, the ERO interpreted BAL–001–0 Requirement R1 as follows:

- The [WECC automatic time error correction or WATEC] procedural documents ask Balancing Authorities to maintain raw ACE for [control performance standard or CPS] reporting and to control via WATEC-adjusted ACE.
- As long as Balancing Authorities use raw (unadjusted for WATEC) ACE for CPS reporting purposes, the use of WATEC for control is not in violation of BAL–001 Requirement 1.

The ERO interpreted BAL–003–0 Requirement R3 as follows:

- Tie-Line Frequency Bias is one of the three foundational control modes available in a Balancing Authority's energy management system. (The other two are flat-tie and flat-frequency.) Many Balancing Authorities layer other control objectives on top of their basic control mode, such as automatic inadvertent payback, [control performance standard] optimization, [and] time control (in single [balancing authority] interconnections).[19]
- As long as Tie-Line Frequency Bias is the underlying control mode and CPS1 is measured and reported on the associated ACE equation,[20] there is no violation of BAL–003–0 Requirement 3:

$$ACE = (NI_A - NI_S) - 10B\ (F_A - F_S) - I_{ME}$$

(NERC December 19, 2007 Filing, Ex. A–3.)

18. In the NOPR, the Commission proposed to approve the ERO's formal interpretations of Requirement R1 of BAL–001–0 and Requirement R3 of BAL–003–0.

b. Comments

19. NERC and IESO support the Commission's proposal to approve these interpretations.

c. Commission Determination

20. The Commission approves the ERO's formal interpretations of Requirement R1 of BAL–001–0 and Requirement R3 of BAL–003–0. The ERO's interpretation of BAL–001–0, Requirement R1, is reasonable in that it requires all balancing authorities in WECC to calculate CPS1 and CPS2 as defined in the Requirements. Thus, the interpretation upholds the reliability goal to minimize the frequency deviation of the interconnection by constantly balancing supply and demand.

21. The ERO's interpretation of BAL–003–0, Requirement R3 is appropriate because it maintains the goal of Requirement R3 by obligating a balancing authority to operate automatic generation control on tie-line frequency bias as its underlying control mode, unless to do so is adverse to system or interconnection reliability. Further, the interpretation fosters the purpose of Requirement R3, as it allows that a balancing authority may go beyond Requirement R3 and ''layer other control objectives on top of their basic control modes, such as automatic inadvertent payback, [control performance standard] optimization, [and] time control (in single [balancing authority] interconnections),'' [21] although such layering is not required by the Reliability Standard.

22. For the reasons stated above, the Commission finds that the ERO's interpretations of Requirement R1 of BAL–001–0 and Requirement R3 of BAL–003–0 are just, reasonable, not unduly discriminatory or preferential, and in the public interest. Accordingly, the Commission approves the ERO's interpretations.

2. Requirement R17 of BAL–005–0—Automatic Generation Control

a. Proposed Interpretation

23. Requirement R17 of Reliability Standard BAL–005–0 is intended to annually check and calibrate the time error and frequency devices under the control of the balancing authority that feed data into automatic generation control necessary to calculate ACE. Requirement R17 mandates that the balancing authority must adhere to an annual calibration program for time error and frequency devices. The

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[15] NRG Companies includes Louisiana Generating LLC, Bayou Cove Peaking Power, LLC, Big Cajun I Peaking Power, LLC, NRG Sterlington Power, LLC, and NRG Power Marketing, LLC.

[16] *See* Reliability Standard BAL–001–0. Each Reliability Standard developed by the ERO includes a ''Purpose'' statement.

[17] Frequency bias is an approximation, expressed in megawatts per 0.1 Hertz, of the frequency response of a balancing authority area which estimates the net change in power from the generators that is expected to occur with a change in interconnection frequency from the scheduled frequency (which is normally 60 Hertz).

[18] Automatic generation control refers to an automatic process whereby a balancing authority's mix and output of its generation and demand-side management is varied to offset the extent of supply and demand imbalances reflected in its ACE. *North American Electric Reliability Corporation,* 121 FERC ¶ 61,179, at P 19 n.14 (2007). ''Tie line frequency bias'' is defined in the NERC Glossary of Terms Used in Reliability Standards as ''[a] mode of Automatic Generation Control that allows the Balancing Authority to 1.) maintain its Interchange Schedule and 2.) respond to Interconnection frequency error.''

[19] The ''flat frequency'' control mode would increase or decrease generation solely based on the interconnection frequency. The ''flat tie'' mode would increase or decrease generation within a balancing authority area depending solely on that balancing authority's total interchange. The ''tie-line frequency bias'' mode combines the flat frequency and flat tie modes and adjusts generation based on the balancing authority's net interchange and the interconnection frequency.

[20] ''CPS1'' refers to Requirement R1 of BAL–001–0.

[21] NERC interpretation of BAL–003–0, Requirement R3.

requirement states that a balancing authority must adhere to minimum accuracies in terms of ranges specified in Hertz, volts, amps, etc., for various listed devices, such as digital frequency transducers, voltage transducers, remote terminal unit, potential transformers, and current transformers.

24. On April 15, 2008, NERC submitted an interpretation of Requirement R17 regarding the type and location of the equipment to which Requirement R17 applies.[22] The interpretation provides that BAL–005–0, Requirement R17

> applies only to the time error and frequency devices that provide, or in the case of back-up equipment may provide, input into the reporting or compliance ACE equation or provide real-time time error or frequency information to the system operator. Frequency inputs from other sources that are for reference only are excluded. The time error and frequency measurement devices may not necessarily be located in the system operations control room or owned by the Balancing Authority; however the Balancing Authority has the responsibility for the accuracy of the frequency and time error devices * * *.
>
> New or replacement equipment that provides the same functions noted above requires the same calibrations. Some devices used for time error and frequency measurement cannot be calibrated as such. In this case, these devices should be cross-checked against other properly calibrated equipment and replaced if the devices do not meet the required level of accuracy.

25. In a supplemental NOPR issued May 16, 2008, the Commission proposed to approve NERC's interpretation of BAL–005–0, Requirement R17. In addition, the Commission noted that tie-line megawatt metering data is an important aspect of ensuring the accurate calculation of ACE, and the interpretation limits the specific accuracy requirements of Requirement R17 to frequency and time error measurement devices. The Commission asked for comment on (1) whether the interpretation could decrease the accuracy of frequency and time error measurements by not requiring calibration of tie-line megawatt metering devices; (2) what conditions would preclude the requirement to calibrate these devices; and (3) whether the accuracy of these devices is assured by other requirements within BAL–005–0 in the absence of calibration.

[22] As mentioned earlier, in April 2008, NERC submitted a petition seeking to withdraw an earlier interpretation of Requirement R17 and substituting a new interpretation for Commission approval.

b. Comments

i. Whether Interpretation Could Decrease Accuracy of Frequency and Time Error Measurements

26. Southern, ITC, ISO/RTO Council, and NERC claim that the interpretation could not decrease the accuracy of frequency and time error measurements by not requiring calibration of tie-line megawatt metering devices because tie-line metering data is not an input to either time error or frequency measurements and has no impact on the accuracy of these devices. NERC further suggests that the Commission may have intended to ask whether the interpretation adversely affects the accuracy of the balancing authority ACE calculation. NERC provides that it does not, because calibration of tie-line metering historically was included in the guide section of NERC Operating Policy 1 and was not intended to be translated into a requirement. NERC asserts that calibration of tie-line metering remains a sound practice and there are safeguards, checks, and balances to ensure inadvertent flows in the interconnection equal zero, thus ensuring that errors in ACE are bounded to protect the interconnections.

27. As a general comment on the proposed interpretation of Requirement R17, Southern suggests that the metering specifications table in Requirement R17 may be creating some confusion because the NERC committee that developed this Reliability Standard intended to include the frequency metering specifications from this table but inadvertently included other metering specifications that are not required to fulfill Requirement R17. Southern claims that Requirement R17 is intended to only address time error and frequency devices, and this table was added in error and should have been limited to specifications for those devices.

ii. What Conditions Would Preclude Requirement To Calibrate Devices

28. NERC, ISO/RTO Council, and Southern claim that there are no conditions which would preclude the requirement to calibrate tie-line megawatt metering devices. NERC suggests that, if the question relates to a possible new requirement to calibrate all tie-line metering equipment on a given schedule, a new standards authorization request should be submitted through the Reliability Standards Development Process. NERC believes that the industry may not want to divert resources away from other important tasks unless a case can be made that calibration of these devices presents a risk to reliability. Similarly, ITC comments that, if the Commission believes it is necessary to annually calibrate the tie-line megawatt metering devices, such a requirement belongs in BAL–005–0 and not in Requirement R17. ISO/RTO Council claims such a requirement is unnecessary because it is redundant, not needed for reliability, and poses the possibility of financial sanctions for no good reason.

29. ITC states that tie-line meters would be precluded from calibration requirements if they are digital devices that the equipment vendor has indicated do not require calibration. They claim that there are no field calibration procedures which can be performed by end-users for such devices. According to ITC, Requirement R17 of BAL–005–0 should recognize that there are modern digital devices that do not require calibration as analog devices do.

iii. Whether Accuracy of Devices Is Assured by Other Requirements

30. NERC, ITC, ISO/RTO Council, and Southern state that tie-line metering accuracy is addressed by Requirement R13 of BAL–005–0, which requires each balancing authority to perform hourly error checks using tie-line megawatt-hour meters with common time synchronization to determine the accuracy of its control equipment and make adjustments accordingly. ITC claims that Requirement R13 of BAL–005–0 provides a more timely identification of errors than a requirement for annual calibration.

31. NERC comments that tie-line metering accuracy is not assured by any other requirement. According to NERC, requirements relating to Reliability Standards BAL–005–0 and BAL–006–1, along with the associated NERC processes, provide several layers of overlapping protection to address tie-line accuracy. NERC further claims that BAL–005–0 requires balancing authorities to operate in conformance with common metering equipment in comparison to that of their neighbors, so there is no net balancing authority error in the interconnection as a whole. In addition, NERC claims that many balancing authorities have secondary or backup metering on critical tie lines and have access to the NERC Resource Adequacy application, which can provide alerts to the balancing authority of tie-line metering errors.

c. Commission Determination

32. The Commission approves the ERO's formal interpretation of Requirement R17 of BAL–005–0 as set forth in the ERO's April 2008 filing. Based on the comments, we find that

this interpretation will not decrease the accuracy of frequency and time error measurements by not requiring calibration of tie-line megawatt metering devices. In addition, we are persuaded by the commenters that the need to calibrate tie-line megawatt metering devices is addressed by other requirements such as Requirement R13 that require hourly checks to ensure continuous accuracy. The Commission notes that the applicable requirement for the accuracy of calibration of tie-line megawatt metering devices is identified in Requirement R17. While Southern has stated that the metering specifications table in Requirement R17 was added in error, an interpretation cannot change the substance of a Reliability Standard. Notwithstanding the question of relevancy of particular components of the metering specifications table, the accuracy requirements of this table remain part of Reliability Standard BAL–005–0 as reference for mandatory reliability practices. The Commission encourages further clarification of tie-line metering device calibration requirements through the ERO standards development process.

33. ITC comments that digital devices are precluded from the calibration requirement. We note that the interpretation provides that ''[s]ome devices used for time error and frequency measurement cannot be calibrated as such. In this case, these devices should be cross-checked against other properly calibrated equipment and replaced if the devices do not meet the required level of accuracy.'' Thus, while ITC's comment is accurate, the ERO's interpretation acknowledges the concern and provides a response, i.e., modern digital devices that cannot be calibrated must be cross-checked against other equipment and replaced if they do not meet the required level of accuracy.

34. The ERO's interpretation of BAL–005–0, Requirement R17 provides that ''frequency inputs from other sources that are for reference only are excluded.'' The Commission notes that this Reliability Standard establishes requirements concerning the inputs to the ACE equation to correctly operate automatic generation control. Frequency inputs used for other purposes are not covered by this Reliability Standard. Therefore, we understand the ERO's interpretation to exclude frequency devices that do not provide input into the reporting or compliance with the ACE equation or provide real-time time error or frequency information to the system operator. Any devices that provide reference input from which a balancing authority calibrates other time error and frequency devices, however, do provide real-time time error and frequency information to the system operator and therefore must be calibrated under this requirement.

3. Requirements R1 and R2 of VAR–002–1 Generator Operation for Maintaining Network Voltage Schedules

a. Proposed Interpretations

35. The stated purpose of Reliability Standard VAR–002–1 is to ensure that generators provide reactive and voltage control necessary to ensure that voltage levels, reactive flows, and reactive resources are maintained within applicable facility ratings to protect equipment and the reliable operation of the interconnection. Requirement R1 ofVAR–002–1 provides:

> The Generator Operator shall operate each generator connected to the interconnected transmission system in the automatic voltage control mode (automatic voltage regulator in service and controlling voltage) unless the Generator Operator has notified the Transmission Operator.

Requirement R2 provides:

> Unless exempted by the Transmission Operator, each Generator Operator shall maintain the generator voltage or Reactive Power output (within applicable Facility Ratings) as directed by the Transmission Operator.

36. The ERO received a request to provide a formal interpretation of Requirements R1 and R2. The request first asked whether automatic voltage regulator operation in the constant power factor or constant Mvar modes complies with Requirement R1. Second, the request asked the ERO whether Requirement R2 gives the transmission operator the option of directing the generation owner to operate the automatic voltage regulator in the constant power factor or constant Mvar modes rather than the constant voltage mode.

37. NERC's formal interpretation provides that a generator operator that is operating its automatic voltage regulator in the constant power factor or constant Mvar modes does not comply with Requirement R1.[23] The interpretation rests on the assumptions that the generator has the physical equipment that will allow such operation and that the transmission operator has not directed the generator to run in a mode other than constant voltage. The interpretation also provides that Requirement R2 gives the transmission operator the option of directing the generation operator to operate the automatic voltage regulator in the constant power factor or constant Mvar modes rather than the constant voltage mode.

38. In the NOPR, the Commission proposed to approve the ERO's interpretation of Requirement R1 and Requirement R2 of VAR–002–1.

b. Comments

39. NERC and IESO support the Commission's proposal to approve the interpretation.

c. Commission Determination

40. The Commission concludes that the interpretation is just, reasonable, not unduly discriminatory or preferential, and in the public interest. Therefore, the Commission approves the ERO's interpretation of Requirements R1 and R2 of VAR–002–1.

B. NERC's December 21, 2007 Filing: Modification of TLR Procedure

41. NERC submitted for Commission approval proposed Reliability Standard IRO–006–4, which modifies the Commission-approved Reliability Standard, IRO–006–3.

1. Background

42. In Order No. 693, the Commission approved an earlier version of this Reliability Standard, IRO–006–3. This Reliability Standard ensures that a reliability coordinator has a coordinated transmission service curtailment and reconfiguration method that can be used along with other alternatives, such as redispatch or demand-side management, to avoid transmission limit violations when the transmission system is congested. Reliability Standard IRO–006–3 established a detailed TLR procedure for use in the Eastern Interconnection to alleviate loadings on the system by curtailing or changing transactions based on their priorities and the severity of the transmission congestion. The Reliability Standard referenced other procedures for WECC and Electric Reliability Council of Texas (ERCOT).[24]

2. ERO TLR Filing, Reliability Standard IRO–006–4

43. In its December 2007 filing, NERC submitted for Commission approval a modified TLR procedure, Reliability Standard IRO–006–4, which contains five requirements. Requirement R1 obligates a reliability coordinator experiencing a potential or actual system operating limit (SOL) or IROL

[23] NERC's interpretation of VAR–002–1, Requirement R1 is quoted in full in the NOPR, FERC Stats. & Regs. ¶ 32,632 at P 32, n.27.

[24] The equivalent interconnection-wide TLR procedures for use in WECC and ERCOT are known as ''WSCC Unscheduled Flow Mitigation Plan'' and section 7 of the ''ERCOT Protocols,'' respectively.

violation within its reliability coordinator area to select one or more procedures to provide transmission loading relief. The requirement also identifies the regional TLR procedures in WECC and ERCOT.

3. NOPR

44. In the NOPR, the Commission proposed to approve IRO–006–4 as just, reasonable, not unduly discriminatory or preferential, and in the public interest.[25] The Commission also proposed to approve the Reliability Standard based on the interpretation that using a TLR procedure to mitigate an IROL violation is a violation of the Reliability Standard. The Commission asked for comments on whether any compromise in the reliability of the Bulk-Power System may result from the removal and transfer to NAESB of the business-related issues formerly contained in Reliability Standard IRO–006–3. In addition, the Commission proposed to direct the ERO to modify the violation risk factors assigned to Requirements R1 through R4 by raising them to ''high.''

4. Comments

45. The Commission received comments on the NOPR proposal. Because the Final Rule does not approve or remand the proposed Reliability Standard and, rather, directs the ERO to submit a filing that provides an explanation regarding specific language of one requirement of IRO–006–4, the Commission will address the comments in a future issuance in this proceeding.

5. Commission Determination

46. Because the Commission has concern regarding the understanding of certain language of Requirements R1 and R1.1 of IRO–006–4, the Commission is not approving or remanding the proposed Reliability Standard at this time. Rather, the Commission directs that the ERO, within 15 days of the effective date of this Final Rule, submit a filing that provides an explanation regarding specific language of Requirements R1 and R1.1 of IRO–006–4. The Commission will then issue a notice allowing public comment on the ERO's filing, and will act on the proposed Reliability Standard in a future issuance in this proceeding.

47. In the *Final Blackout Report*, an international team of experts studying the causes of the August 2003 blackout in North America recommended that NERC ''[c]larify that the transmission loading relief (TLR) process should not be used in situations involving an actual violation of an Operation Security Limit.''[26] Based on the *Final Blackout Report* recommendation, the Commission, in Order No. 693, directed NERC to develop a modification to the TLR procedure (IRO–006–3) that ''(1) includes a clear warning that the TLR procedure is an inappropriate and ineffective tool to mitigate actual IROL violations and (2) identifies in a Requirement the available alternatives to mitigate an IROL violation other than use of the TLR procedure.''[27]

48. In response to this directive, NERC proposed in Requirement R1.1 of IRO–006–4 that ''[t]he TLR procedure [for the Eastern Interconnection] *alone* is an inappropriate and ineffective tool to mitigate an IROL violation due to the time required to implement the procedure.'' (Emphasis added.) The Commission is concerned whether this language is adequate to satisfy the concern of the *Final Blackout Report* and Order No. 693. Specifically, we note that the use of the term ''alone'' seems to imply that a TLR procedure could be used in response to an actual violation of an IROL whereas the *Final Blackout Report* recommendation would prevent the use of the TLR procedure in such situations. Moreover, Requirement R1 of IRO–006–4 further appears to contradict the *Final Blackout Report* recommendation by allowing a reliability coordinator to implement transmission loading relief procedures to mitigate not only *potential* SOL or IROL violations but also *actual* SOL or IROL violations.[28] The Commission is concerned that Recommendation 31 of the *Final Blackout Report* and the directive in Order No. 693, both of which state the TLR procedures should not be used in situations involving an actual violation of an IROL, may not be clearly addressed in the proposed Reliability Standard.

49. The Commission notes that an entity is not prevented from using the TLR procedure to avoid a potential IROL violation before a violation occurs. If, while a TLR procedure is in progress, an IROL violation occurs, it is not necessary for the entity to terminate the TLR procedure. However, the Commission believes that it is inappropriate and ineffective to rely on the TLR procedure, even in conjunction with another tool, to address an *actual* IROL violation.

50. Therefore, the Commission does not approve or remand IRO–006–4. Rather, the Commission directs the ERO to submit a filing, within 15 days of the effective date of this Final Rule, that provides an explanation regarding Requirements R1 and R1.1 of IRO–006–4. Specifically, in light of the above discussion, the Commission directs the ERO to provide an explanation regarding the phrase ''[t]he TLR procedure *alone* is an inappropriate and ineffective tool to mitigate an IROL violation * * *'' Further, the ERO should explain whether Requirements R1 and R1.1 only allow the TLR procedure to be continued when already deployed prior to an actual IROL violation or, alternatively, whether Requirements R1 and R1.1 allow use of the TLR procedure as a tool to address actual violations after they occur. If the latter, the ERO is directed to explain why this application is not contrary to both Blackout Report Recommendation 31 and the Commission's determination in Order No. 693. The ERO's filing should include an explanation of those actions that are acceptable, and those that are unacceptable, pursuant to Requirement R1 and R1.1.

C. NERC's December 26, 2007 Filing: Modification to Five ''Interchange and Scheduling'' Reliability Standards

51. NERC submitted for Commission approval proposed modifications to five Reliability Standards from the INT group of Reliability Standards.

1. INT–001–3—Interchange Information and INT–004–2—Dynamic Interchange Transaction Modifications

52. The Interchange Scheduling and Coordination or ''INT'' group of Reliability Standards address interchange transactions, which occur when electricity is transmitted from a seller to a buyer across the Bulk-Power System. Reliability Standard INT–001 applies to purchasing-selling entities and balancing authorities. The stated purpose of the Reliability Standard is to ''ensure that Interchange Information is submitted to the NERC-identified reliability analysis service.'' Reliability

[25] NOPR, FERC Stats. & Regs. ¶ 32,632 at P 48.

[26] *See* U.S.-Canada Power System Outage Task Force, *Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations*, at 163 (April 2004) (*Final Blackout Report*) (Recommendation 31).

[27] *See* Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 577, 964.

[28] Requirement R1 provides that ''[a] reliability Coordinator experiencing a potential or actual SOL or IROL violation within its Reliability Coordinator Area shall, with its authority and at its discretion, select one or more procedures to provide transmission loading relief. This procedure can be a ''local'' * * * transmission loading relief procedure or one of the following Interconnection-wide procedures.* * *'' Sub-requirement R1.1 provides that ''[t]he TLR procedure alone is an inappropriate and ineffective tool to mitigate an IROL violation due to the time required to implement the procedure. Other acceptable and more effective procedures to mitigate actual IROL violations include: Reconfiguration, redispatch, or load shedding.''

Standard INT–004 is intended to ''ensure Dynamic Transfers are adequately tagged to be able to determine their reliability impacts.''

53. In Order No. 693, the Commission approved earlier versions of these Reliability Standards, INT–001–2 and INT–004–1.[29] Further, when NERC initially (in April 2006) submitted these two Reliability Standards for Commission approval, NERC also asked the Commission to approve a ''regional difference'' that would exempt WECC from requirements related to tagging dynamic schedules and inadvertent payback provisions of INT–001–2 and INT–004–1. The Commission, in Order No. 693, stated that it did not have sufficient information to address the ERO's proposed regional difference and directed the ERO to submit a filing either withdrawing the regional difference or providing additional information needed for the Commission to make a determination on the matter.[30] The effect of NERC's December 26, 2007 filing is to withdraw the regional difference with respect to WECC.

54. In its December 26, 2007 filing, NERC stated that, by rescinding the e-tagging waivers, NERC maintains uniformity and makes no structural changes to the requirements in the current Commission-approved version of the Reliability Standards.

55. In the NOPR, the Commission proposed to approve INT–001–3 and INT–004–2.

a. Comments

56. NERC and the IESO support the Commission's proposal to approve these Reliability Standards.

b. Commission Determination

57. Pursuant to section 215(d) of the FPA, the Commission approves Reliability Standards INT–001–3 and INT–004–2 as mandatory and enforceable.

2. INT–005–2—Interchange Authority Distributes Arranged Interchange, INT–006–2—Response to Interchange Authority, and INT–008–2—Interchange Authority Distributes Status

58. Reliability Standard INT–005–1 applies to the interchange authority. The stated purpose of proposed Reliability Standard INT–005–1 is to ''ensure that the implementation of Interchange between Source and Sink Balancing Authorities is distributed by an Interchange Authority such that Interchange information is available for reliability assessments.''

59. Reliability Standard INT–006–1 applies to balancing authorities and transmission service providers. The stated purpose of the Reliability Standard is to ''ensure that each Arranged Interchange is checked for reliability before it is implemented.''

60. Reliability Standard INT–008–1 applies to the interchange authority. The stated purpose of the Reliability Standard is to ''ensure that the implementation of Interchange between Source and Sink Balancing Authorities is coordinated by an Interchange Authority.'' This means that it is an interchange authority's responsibility to oversee and coordinate the interchange from one balancing authority to another.

61. In its December 26, 2007 filing, NERC addressed a reliability need identified by WECC in its urgent action request. Specifically, Requirement R1.4 of INT–007–1 requires that each balancing authority and transmission service provider provide confirmation to the interchange authority that it has approved the transactions for implementation. NERC stated that for WECC the timeframe allotted for this assessment is five minutes in the original version of the Commission-approved Reliability Standards.

62. Reliability Standards for INT–005–2, INT–006–2, and INT–008–2 increase the timeframe for applicable WECC entities to perform the reliability assessment from five to ten minutes for next hour interchange tags submitted in the first thirty minutes of the hour before. According to NERC, this modification is needed because the majority of next-hour tags in WECC are submitted between xx and xx:30. The existing five minute assessment window makes it nearly impossible for balancing authorities and transmission service providers to review each tag before the five minute assessment time expires. According to NERC, when the time expires, the tags are denied and must be resubmitted.

63. In its December 26, 2007 filing, NERC stated that WECC has experienced numerous instances of transactions being denied because one or more applicable reliability entities did not actively approve the tag. In NERC's view, the current structure causes frustration and inefficiencies for entities involved in this process, as requestors are required to re-create tags that are denied. Further, NERC stated that there is no reliability basis for a five minute assessment period for tags submitted at least thirty minutes ahead of the ramp-in period.

64. NERC noted that, prior to January 1, 2007, when the new INT group of Reliability Standards was implemented, WECC had a ten-minute reliability assessment period for next-hour tags. NERC states that the urgent action request restores assessment times back to ten minutes.

65. In the NOPR, the Commission proposed to approve INT–005–2, INT–006–2, and INT–008–2.

a. Comments

66. NERC and IESO support the Commission's proposal to approve these Reliability Standards.

b. Commission Determination

67. Pursuant to section 215(d) of the FPA, the Commission approves Reliability Standards INT–005–2, INT–006–2, and INT–008–2 as mandatory and enforceable.[31]

III. Information Collection Statement

68. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting and recordkeeping (collections of information) imposed by an agency.[32] The information contained here is also subject to review under section 3507(d) of the Paperwork Reduction Act of 1995.[33] As stated above, the Commission previously approved, in Order No. 693, each of the Reliability Standards that are the subject of the current rulemaking. In the NOPR, the Commission explained that the modifications to the Reliability Standards are minor and the interpretations relate to existing Reliability Standards; therefore, they do not add to or increase entities' reporting burden. Thus, in the NOPR, the Commission stated that the modified Reliability Standards and interpretations of Reliability Standards do not materially affect the burden estimates relating to the earlier version of the Reliability Standards presented in Order No. 693.[34]

69. In response to the NOPR, the Commission received no comments concerning its estimate for the burden and costs and therefore uses the same estimate here.

[29] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 821, 843. In addition, the Commission directed that the ERO develop modifications to INT–001–2 and INT–004–1 that address the Commission's concerns.

[30] *Id.* P 825.

[31] The Commission notes that NERC's compliance with Order No. 693, with respect to Reliability Standard INT–006–1, is ongoing. *See* Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 866.

[32] 5 CFR 1320.11.

[33] 44 U.S.C. 3507(d).

[34] *See* Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1905–07. The NOPR, FERC Stats. & Regs. ¶ 32,632 at P 76–78, provided a detailed explanation why each modification and interpretation has a negligible, if any, effect on the reporting burden.

Title: Modification of Interchange and Transmission Loading Relief Reliability Standards; and Electric Reliability Organization Interpretation of Specific Requirements of Four Reliability Standards.

Action: Proposed Collection.

OMB Control No.: 1902–0244.

Respondents: Businesses or other for-profit institutions; not-for-profit institutions.

Frequency of Responses: On Occasion.

Necessity of the Information: This Final Rule approves five modified Reliability Standards that pertain to interchange scheduling and coordination. It directs NERC to make a filing with the Commission regarding one modified Reliability Standard that pertains to transmission loading relief procedures. In addition, the Final Rule approves interpretations of five specific requirements of Commission-approved Reliability Standards. The Final Rule finds the Reliability Standards and interpretations just, reasonable, not unduly discriminatory or preferential, and in the public interest.

70. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, 888 First Street, NE., Washington, DC 20426, Tel: (202) 502–8415, Fax: (202) 273–0873, E-mail: *michael.miller@ferc.gov*, or by contacting: Office of Information and Regulatory Affairs, Attn: Desk Officer for the Federal Energy Regulatory Commission (Re: OMB Control No. 1902–0244), Washington, DC 20503, Tel: (202) 395–4650, Fax: (202) 395–7285, E-mail: *oira_submission@omb.eop.gov*.

IV. Environmental Analysis

71. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[35] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[36] The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act

72. The Regulatory Flexibility Act of 1980 (RFA)[37] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's Office of Size Standards develops the numerical definition of a small business. (*See* 13 CFR 121.201.) For electric utilities, a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours. The RFA is not implicated by this Final Rule because the minor modifications and interpretations discussed herein will not have a significant economic impact on a substantial number of small entities.

VI. Document Availability

73. In addition to publishing the full text of this document in the **Federal Register** , the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

74. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

75. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or e-mail at *ferconlinesupport@ferc.gov*, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. E-mail the Public Reference Room at *public.referenceroom@ferc.gov*.

VII. Effective Date and Congressional Notification

76. These regulations are effective August 27, 2008. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 18 CFR Part 40

Electric power, Electric utilities, Reporting and recordkeeping requirements.

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–17196 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

[35] *Regulations Implementing the National Environmental Policy Act of 1969*, Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[36] 18 CFR 380.4(a)(2)(ii).

[37] 5 U.S.C. 601–12.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0742]

RIN 1625–AA00

Safety Zone; 70th Anniversary Celebration for the Thousand Island International Bridge, St. Lawrence River, Alexandria Bay, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the St. Lawrence River, Alexandria Bay, NY. This zone is intended to restrict vessels from a portion of the St. Lawrence River during the August 16, 2008, 70th Anniversary Celebration for the Thousand Island International Bridge. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective from 9 p.m. to 10 p.m. on August 16, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0742 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, at the U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Boulevard, Buffalo, NY 14203 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, contact Commander Joseph Boudrow, U.S. Coast Guard Sector Buffalo, at (716) 843–9572. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the permit application was not received in time to publish an NPRM followed by a final rule before the effective date.

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 and property.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Buffalo has determined that fireworks launches proximate to watercraft pose a significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the 70th Anniversary Celebration for the Thousand Island International Bridge fireworks display. The fireworks display will occur between 9 p.m. and 10 p.m. on August 16, 2008.

The safety zone for the fireworks will encompass all waters of the St. Lawrence River on Heart Island at Boldt Castle, Alexandria Bay, NY, in a 700 foot radius of position 44°20′40″ N, 075°55′17″ W (DATUM: NAD 83).

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

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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

This 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 zones' 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 the St. Lawrence River in Alexandria Bay, NY, between 9 p.m. and 10 p.m. on August 16, 2008.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only one hour for one event. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Buffalo 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 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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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 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 encouraged 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 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, under the Instruction, 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 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(g), 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.T09–0742 is added as follows:

§ 165.T09–0742 Safety zone; 70th Anniversary Celebration for the Thousand Island International Bridge, St. Lawrence River, Alexandria Bay, NY.

(a) *Location*. All waters of the St. Lawrence River on Heart Island at Boldt Castle, Alexandria Bay, NY, in a 700 foot radius of position 44°20′40″ N, 075°55′17″ W (DATUM: NAD 83).

(b) *Effective period*. This zone will be enforced from 9 p.m. to 10 p.m. on August 16, 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 Buffalo, 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 Buffalo 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.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16. 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 Buffalo or his on-scene representative.

Dated: July 17, 2008.

Robert S. Burchell,

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

[FR Doc. E8–17186 Filed 7–25–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0739]

RIN 1625–AA00

Safety Zone; Carly's Crossing, Lake Erie, Buffalo, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Erie, Buffalo, NY. This zone is intended to restrict vessels from a portion of Lake Erie during the August 16, 2008 Carly's Crossing Swimming Event. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with Swimming Events.

DATES: This rule is effective from 6:30 a.m. to 2:30 p.m. on August 16, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0739 and are available online at *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 Buffalo, 1 Fuhrmann Boulevard, Buffalo, NY 14203 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, contact Commander Joseph Boudrow, U.S. Coast Guard Sector Buffalo, at (716) 843–9572. If you have questions on viewing the docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when an agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the permit application was not received in time to publish a NPRM followed by a final rule before the effective date.

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

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with Swimming Events. Based on recent accidents that have occurred in other Captain of the Port zones, the Captain of the Port Buffalo, has determined that Swimming Events pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, and alcohol use, could easily result in serious injuries or fatalities.

Discussion of Rule

The proposed safety zone consists of all navigable waters of Lake Erie extending two miles to the breakwall outside of Gallagher Beach. The positions of the race course are as follows, starting 42°50′47″ N, 078°51′44″ W headed North East to position 42°50′27″ N, 078°52′23″ W West to 42°50′19″ N, 078°52′10″ W then finishing South at position 42°50′27″ N, 078°51′35″ W (NAD 83). The size of this proposed zone was determined using the location of the race course approved by the Captain of the Port Buffalo and local knowledge concerning wind, waves, and currents.

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

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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

This 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 zones' activation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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 might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Lake Erie, Buffalo, NY 6:30 a.m. and 2:30 p.m. on August 16, 2008.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for eight hours for one event. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of The Port Buffalo 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 this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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 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 encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. 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, under the Instruction, 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 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(g), 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.T09–0739 is added as follows:

§ 165.T09–0739 Safety Zone; Carly's Crossing, Lake Erie, Buffalo, NY.

(a) *Location*. All waters of Lake Erie extending two miles to the breakwall outside of Gallagher Beach. The positions of the race course are as follows: starting 42°50′47″ N, 078°51′44″ W headed North East to position 42°50′27″ N, 078°52′23″ W West to 42°50′19″ N, 078°52′10″ W then

finishing South at position 42° 50′27″ N, 078°51′35″ W (NAD 83).

(b) *Effective period*. This regulation is effective from 6:30 a.m. to 2:30 p.m. on August 16, 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 Buffalo 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 Buffalo 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.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16. 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 Buffalo or his on-scene representative.

Dated: July 17, 2008.

Robert S. Burchell,

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

[FR Doc. E8–17181 Filed 7–25–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2007–0011; FRL–8698–3]

RIN 2060–AN72

Standards of Performance for Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; stay of effective date.

SUMMARY: On June 24, 2008, EPA published in the **Federal Register** final amendments to the current standards of performance for petroleum refineries and separate standards of performance for new, modified, or reconstructed process units at petroleum refineries. Both of these final rules had an effective date of June 24, 2008. This document stays the effective date of the rule for the newly promulgated standards of performance for new, modified, or reconstructed process units at petroleum refineries to September 26, 2008 to be consistent with sections 801 and 808 of the Congressional Review Act, enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801, 808. The effective date for the final rule promulgating amendments to the current standards of performance for petroleum refineries is not changing and remains June 24, 2008.

DATES: The effective date of this rule is July 28, 2008. Title 40 CFR part 60, subpart Ja, consisting of §§ 60.100a through 60.109a, is stayed until September 26, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. Robert B. Lucas, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143–01), Environmental Protection Agency, Research Triangle Park, NC 27711, *telephone number:* (919) 541–0884; *fax number:* (919) 541–0246; *e-mail address: lucas.bob@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Environmental Protection Agency published a final rule on June 24, 2008 that contained the following: (1) Final amendments to the existing refineries New Source Performance Standards (NSPS) in 40 CFR part 60, subpart J; and (2) a new refineries NSPS in 40 CFR part 60, subpart Ja (73 FR 35838). The preamble to that rule contained an incorrect effective date and contained an error in the Congressional Review Act (CRA) statement in the Statutory and Executive Order Reviews section. The preamble incorrectly classified all amendments to the CFR in that rule document as ''non-major'' rules and provided for an effective date of June 24, 2008. The amendments to existing NSPS subpart J in that document are properly classified as a ''non-major rule;'' however, the amendment that added the new NSPS subpart Ja is a ''major'' rule under the CRA. Section 801 of the CRA precludes a major rule from taking effect until the later of 60 days after the date of publication of the rule in the **Federal Register** or 60 days after each House of Congress and the Comptroller General of the Government Accountability Office receive a copy of a rule report. While EPA did submit the above rule as required, because NSPS subpart Ja is a ''major'' rule, the effective date of June 24, 2008 does not comply with sections 801 and 808 of the CRA. Today's rule stays the effective date of NSPS subpart Ja consistent with the provisions of the CRA; the effective date of NSPS subpart Ja is September 26, 2008. The amendments in NSPS subpart J are not affected by today's action and remain effective from June 24, 2008.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA is merely correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the CRA as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

II. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, therefore, is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the

Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the June 24, 2008 **Federal Register** document.

B. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporations by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 22, 2008.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 60—[AMENDED]

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

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

Subpart Ja—[Stayed]

■ 2. Subpart Ja, consisting of §§ 60.100a through 60.109a, is stayed until September 26, 2008.

[FR Doc. E8–17220 Filed 7–25–08; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 301–10

[FTR Amendment 2008–05; FTR Case 2008–304; Docket 2008–0002, Sequence 3]

RIN 3090–AI65

Federal Travel Regulation; Privately Owned Vehicle Mileage Reimbursement

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: This final rule amends the mileage reimbursement rate for use of a privately owned vehicle (POV) when that mode of transportation is authorized or approved as more advantageous to the Government. The governing regulation is revised to increase the cost of operating a privately owned airplane from $1.07 to $1.26 per mile, a privately owned automobile (POA) from $0.505 to $0.585 cents per mile, and a privately owned motorcycle from $0.305 to $0.585 cents per mile.

DATES: *Effective Date:* This final rule is effective July 28, 2008.

Applicability Date: This final rule applies to travel performed on or after August 1, 2008.

FOR FURTHER INFORMATION CONTACT The Regulatory Secretariat (VPR), Room 4041, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Patrick McConnell, Office of Governmentwide Policy, Travel Management Policy, at (202) 501–2362. Please cite FTR Amendment 2008–05; FTR case 2008–304.

SUPPLEMENTARY INFORMATION:

A. Background

Pursuant to 5 U.S.C. 5707(b), the Administrator of General Services has the responsibility to establish the POV mileage reimbursement rates. The Acting Administrator of General Services has determined that the per-mile operating cost of each POV is as follows:

Airplane—Costs presented in the 1995 initial investigation of operating costs of privately owned aircraft are updated through GSA's consultation with the Aircraft Owners and Pilots Association. The general methodology, in part, included information and items such as average U.S. retail price for aviation fuel, maintenance labor and parts, engine and propeller overhaul, and all items associated with determining a composite single engine piston aircraft reimbursement rate for Federal employees using their own aircraft while on official travel. The per-mile operating cost of a privately owned airplane is $1.26.

Automobile—A recent investigation revealed that the per-mile operating cost of a privately owned automobile is $0.585 cents. As provided in 5 U.S.C. 5704(a)(1), the automobile reimbursement rate cannot exceed the single standard mileage rate established by the Internal Revenue Service (IRS). On June 23, 2008, IRS announced a new single standard mileage rate for automobiles of $0.585 cents per mile effective July 1, 2008 to December 31, 2008.

Motorcycle—A report on the motorcycle mileage reimbursement rate prepared for GSA provides that the costs of operating a privately owned motorcycle for official travel now equals the mileage reimbursement rate set for official use of a privately owned automobile. The per-mile operating cost of a privately owned motorcycle is $0.585.

B. Executive Order 12866

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This final rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the Federal Travel Regulation do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 301–10

Government employees, Travel and transportation expenses.

Dated: July 11, 2008.

David L. Bibb,

Acting Administrator of General Services.

■ For the reasons set forth in the preamble, under 5 U.S.C. 5701–5709, GSA amends 41 CFR part 301–10 as set forth below:

PART 301–10—TRANSPORTATION EXPENSES

■ 1. The authority citation for 41 CFR part 301–10 continues to read as follows:

Authority: 5 U.S.C. 5707, 40 U.S.C. 121(c); 49 U.S.C. 40118, Office of Management and Budget Circular No. A–126, ''Improving the Management and Use of Government Aircraft.'' Revised April 28, 2006.

§ 301–10.303 [Amended]

■ 2. In § 301–10.303, in the table, in the second column, under the heading ''Your reimbursement is'', remove ''[1]$1.07'' and add ''[1]$1.26'' in its place; remove ''[1]$0.505'' and insert ''[1]$0.585'' in its place; and remove ''[1]$0.305'' and insert ''[1]$0.585'' in its place.

Note: The following attachment will not appear in the Code of Federal Regulations.

Attachment to Preamble

GENERAL SERVICES ADMINISTRATION

REPORTING TO CONGRESS—THE COSTS OF OPERATING PRIVATELY OWNED VEHICLES

Paragraph (b) of Section 5707 of Title 5, United States Code, requires the Administrator of General Services to periodically investigate the cost to Government employees of operating privately owned vehicles (airplanes, automobiles, and motorcycles) while on official travel, to report the results of the investigations to Congress, and to publish a report in the **Federal Register**. The following report on the privately owned vehicle mileage reimbursement rates is published in the **Federal Register**.

Dated: July 11, 2008.

David L. Bibb,

Acting Administrator of General Services.

Reporting To Congress—The Costs of Operating Privately Owned Vehicles

5 U.S.C. 5707(b)(1)(A) requires that the Administrator of General Services, in consultation with the Secretary of Defense, the Secretary of Transportation, and representatives of Government employee organizations, conduct periodic investigations of the cost of travel and operation of privately owned vehicles (airplanes, automobiles, and motorcycles) to Government employees while on official travel, and report the results to the Congress at least once a year. 5 U.S.C. 5707(a)(1) requires that the Administrator of General Services issue regulations prescribing mileage reimbursement rates and determine the average, actual cost per mile for the use of each type of privately owned vehicle based on the results of these cost investigations. Such figures must be reported to the Congress within 5 working days after the cost determination has been made in accordance with 5 U.S.C. 5707(b)(2)(C).

Pursuant to the above, the General Services Administration (GSA), in consultation with the above-specified parties conducted investigations of the cost of operating privately owned vehicles. As provided in 5 U.S.C. 5704(a)(1), the privately owned automobile (POA) reimbursement rate cannot exceed the single standard mileage rate established by the Internal Revenue Service (IRS). The IRS announced a new single standard mileage rate for a POA of $0.585, which was effective July 1, 2008 through December 31, 2008. As required, GSA is reporting the results of GSA's investigation and the cost per mile determination. Based on cost studies conducted by GSA, the Acting Administrator of General Services has determined the per-mile operating costs of a POA to be $0.585. In addition, the Acting Administrator of General Service has determined the per-mile operating costs of a privately owned airplane to be $1.26, and the per-mile operating costs of a privately owned motorcycle to be $0.585.

[FR Doc. E8–17183 Filed 7–25–08; 8:45 am]

BILLING CODE 6820–14–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 422

[CMS–4121–F]

RIN 0938–AO54

Medicare Program; Prohibition of Midyear Benefit Enhancements for Medicare Advantage Organizations

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule prohibits Medicare Advantage (MA) organizations, including organizations offering MA plans to employer and union group health plan sponsors, from making midyear changes to non-prescription drug benefits, premiums, and cost-sharing submitted in their approved bids for a given contract year. This final rule also clarifies that MA organizations offering certain kinds of plans restricted to employer and union group health plan sponsors and not open to general enrollment may continue to offer benefit enhancements as they do currently, through means other than midyear benefit enhancements (MYBEs). Programs of all-inclusive care for elderly (PACE) are not subject to the provisions of this final rule and may continue to offer enhanced benefits as specified in our guidance for PACE plans.

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

FOR FURTHER INFORMATION CONTACT: Christopher McClintick, (410) 786–4682.

SUPPLEMENTARY INFORMATION:

I. Background

Title II of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) made important changes to the Medicare+Choice (M+C) program under Part C of Medicare and renamed the program Medicare Advantage (MA). On August 3, 2004, we published in the **Federal Register** a proposed rule (69 FR 46866) that set forth the provisions that would implement Title II of the MMA. On January 28, 2005, we published in the **Federal Register** a final rule (70 FR 4588) to implement our proposals. A major revision to the MA program was to implement a new bidding process for determining benefits.

In the August 3, 2004 proposed rule, we proposed to prohibit MA

organizations from offering MYBEs (that is, enhanced benefits or reductions in premiums or cost-sharing amounts not specified in the approved bid for the calendar year (CY) in question). We believed MYBEs undermined the statutory requirement for a competitive bidding process. In response to the August 3, 2004 proposed rule, several commenters objected to our proposal to eliminate MYBEs. These commenters believed that we could allow MYBEs without affecting the integrity of the bidding process.

In the January 28, 2005 final rule (70 FR 4639), we noted that under the previous M+C program, we permitted M+C organizations to offer new plans midyear and to offer MYBEs to existing benefit packages, but were concerned that this was no longer appropriate under the new bidding process. Also, in the January 28, 2005 final rule (70 FR 4640), we noted that MYBEs ''* * * would be a de facto adjustment to the benefit packages from which bids were submitted earlier in the year.'' In a related final rule (published January 28, 2005 (70 FR 4301)) implementing the Medicare prescription drug benefit (Part D regulations), we similarly stated that MYBEs ''* * * would be de facto acknowledgement that the revenue requirements submitted by the plan were overstated.'' Although we acknowledged that MYBEs could undermine the integrity of the bidding process, in response to comments on the August 3, 2004 proposed rule, we decided to permit them on an interim basis under limited circumstances. Therefore, in the January 28, 2005 final rule, we stated that we would permit MYBEs to non-drug benefits only as a transitional policy and under the following circumstances only:

- An MYBE could be effective no earlier than July 1 of the contract year, and no later than September 1 of the contract year (in subsequent instructions issued in a April 10, 2007 CMS memorandum, we further limited the effective date to September 1);
- MA organizations could not submit MYBE applications later than July 31 of the contract year (in subsequent instructions issued in an April 10, 2007 CMS memorandum, we further limited the application date to June 30); and
- Twenty-five percent of the value of the MYBE would be retained by the government.

If the MYBE met the circumstances described above, the requesting MA organization—

- Was required to submit for each plan or segment, a revised bid and any supporting documentation related to the enhancement, including information on where the revenue requirements were overstated in the annual June bid submission; and
- Would be subject to CMS consideration of whether there is a current year MYBE request when analyzing a plan's bid for the following year.

On September 1, 2006, we published in the **Federal Register** a proposed rule (71 FR 52014–52017) that proposed prohibiting MYBEs for all MA organizations. For more information concerning the basis of our proposal to prohibit MYBEs, see the proposed rule and our discussion of the proposed rule in Section II of this document.

II. Provisions of the Proposed Regulations

In the September 1, 2006 proposed rule, we proposed to prohibit all MA organizations from offering midyear benefit enhancements. We are referring the reader to 71 FR 52014–52017, for more information concerning the basis of our proposal to prohibit MYBEs.

III. Analysis of and Responses to Public Comments

We received 4 items of timely correspondence on the proposed rule, raising 5 specific issues. The comments, which we discuss below, were from an individual, a health plan, and two insurance trade organizations. We reviewed each commenter's letter and for ease of reference, we are organizing the comments and our responses to them in the sections relating to MA plans, and employer and union group health plans, in general.

A. Medicare Advantage Plans

We proposed to prohibit MYBEs as being inconsistent with the new, MMA-authorized, competitive bidding process. We proposed that the new prohibition would be effective beginning contract year 2007. We received comments concerning the timeline for implementation of MYBEs, and our contentions that MYBEs encourage overbidding; that MYBEs are inconsistent with the Part D benefit, which does not permit MYBEs; and that MYBEs can lead to an unfair advantage for plans offering them. Some commenters also stated that if we were to prohibit MYBEs, we would be affecting primarily beneficiaries who would not have the opportunity to receive additional benefits. See the proposed rule for more information on these issues.

Comment: A commenter stated that current MYBE policy achieves a balance between preserving the integrity of the bidding process and providing enrollees with additional benefits at no extra costs.

Response: We believe that beneficiaries and the MA program in general are best served by having a fair, competitive, and transparent bidding process. By prohibiting MYBEs we believe that plans will have more incentive to submit bids that reflect actual revenue needs. Establishing a level playing field and preserving the integrity of the competitive bidding process will be fair to plans and provide beneficiaries with quality benefit packages with reasonable costs.

Comment: Three commenters recommended that CMS defer for a year consideration of the policy to prohibit MYBEs. The commenters' recommendation for this request ranged from the need to have more experience with the bidding process, to the need to take into account the fact that plans would have little experience with the bidding process and, therefore, would need more time to make the transition to the new process. One of the commenters requested that if CMS concludes a new policy is needed, it should publish a new proposed rule.

Response: Based on these comments, we delayed publication of the final rule, which we had proposed to implement beginning with the 2007 calendar year (CY). While the additional year of experience has been helpful for us in assessing MYBEs, we believe that it confirms a longer transition period will not be necessary (only one MA organization, for example, applied for a MYBE in 2007). With respect to our other primary concerns, we continue to estimate that MYBEs would likely lead to bids as much as 2 to 3 percent higher than would be submitted if MYBEs were prohibited, and that the competitive nature of the bidding process would be undermined to both the detriment of beneficiaries and the MA program if MYBEs were permitted even under the current limitations. We also do not believe that there is any benefit to publishing another proposed rule. Although this final rule updates some of our original contentions, and clarifies our discussion of employer and union sponsored group health plans and MYBEs, our concerns as well as our means of addressing them remain unchanged as does the larger context surrounding MYBEs and the MA program. We believe, therefore, that it is important to proceed as indicated in the proposed rule so that we may ensure that the bidding process is competitive, fair to all, and that it continues to comply with the statute.

Comment: A commenter disagreed with our statement that there was value

in making the MA MYBE policy consistent with the prescription drug benefit program (which does not permit MYBEs). The commenter also stated that the offering of basic or supplemental benefits in MA programs often have separate requirements, and asked why this should not be the case with respect to MYBEs and Part C and D benefits. In other words, the commenter asked why would CMS prohibit MYBEs for MA benefits simply because this is the case for Part D benefits.

Response: As we stated in the proposed rule, we do not believe that non-prescription drug benefits should be treated differently than prescription drug benefits. In many MA plans (known as MA–PDs), beneficiaries also receive the Part D prescription drug benefit. (Under our current guidance, in such cases beneficiaries could receive benefit enhancements for health benefits midyear but no enhancements for the Part D portion of the benefit.) By prohibiting MYBEs we will create consistency in treatment of the Part C and D benefit components and ensure that estimates of the revenue necessary for both is accurate. In response to the comment that the sometimes different requirements surrounding Part C basic and supplemental benefits would permit different treatment of MA and Part D benefits, (that is, allow MYBEs for MA plans but not for Part D plans), we believe that the different requirements cited by the commenter would have little to do with the question of MYBEs and their relation to bidding. Instead, the prohibition on MYBEs is primarily due to our desire to ensure that bids accurately represent the revenue needed whether for MA basic or supplemental benefits.

B. Employer and Union Group Health Plans

In the January 28, 2005 final rule (70 FR 4639), we noted that under the previous M+C program, we permitted M+C organizations to offer MYBEs to existing benefit packages (that is, enhanced benefits, or reductions in premiums or cost-sharing amounts). We also noted that because employers and unions offering group health plans through an MA organization may operate on different bidding and negotiation timelines, MA organizations offering certain kinds of restricted enrollment plans to employer and union group health plan sponsors would be allowed to offer MYBEs on a flow basis and would not be subject to the new restrictions on MYBEs. This exemption from the proposed MYBE restriction included both the ''800-series'' employer and union-only group health plans and the new type of employer and union group health plan, where we directly contract with the employer or union sponsor offering an MA product (both of these restricted enrollment employer-only plans have since become known as employer and union-only group waiver plans or ''EGWPs''). We noted that we did not believe the competitive nature of the bidding process was affected if benefit packages for these plans were adjusted midyear in accordance with our guidance.

However, we noted that an MA organization would be subject to the policy of restricted MYBEs if it is offering an employer or union group health plan sponsor a plan that enrolls both individual beneficiaries and employer or union group health plan members, (that is, a plan open to general enrollment). For these latter plans, we also noted that employers and unions would still be free to enhance benefits midyear for the part of the group health plan benefit that is a ''wrap-around'' to the MA plan and that is only available to that employer or union group health plan sponsor's members. Additionally, we noted that these ''wrap-around'' benefits are not technically part of the MA plan.

In the September 1, 2006 proposed rule (71 FR 52016), we noted that there was no longer a need for an interim MYBE policy and applied the same rule to ''800-series'' EGWPs that was proposed for all other MA plans (with the exception of PACE plans). That is, we proposed that beginning with CY 2007, all MA organizations, including organizations offering MA plans to employer and union group health plan sponsors, would not be permitted to make any midyear changes in benefits, premiums or cost-sharing even under the circumstances in which these types of changes were permitted in CY 2006. We proposed that this policy apply to MA organizations that offer plans open to general enrollment to employer and union group health plan sponsors and MA organizations that offer restricted enrollment plans to employer and union group health plan sponsors (that is, ''800 series'' EGWPs).

Comment: Two insurance trade associations commented that the proposed rule should not apply to restricted enrollment MA plans. The commenters stated that the proposed rule would severely limit the longstanding flexibility for MA organizations and employers or unions to negotiate benefits throughout the year that are responsive to the needs and interests of these employer and union group health plan sponsors and their members and thereby discourage employer and union health plan sponsors from enrolling their members in MA plans. The commenters also indicated that it is crucial for MA plans to be able to accommodate the timing of arrangements with employers and unions that offer ''800-series'' non-calendar year plans, and those ''800-series'' plans and/or contracts that begin midyear. For example, the commenters stated that it would be extremely difficult for MA organizations that must submit a bid by June of each year to anticipate the needs of employers who have plan years that start in July of the following year (for example, State and local governments).

Response: We agree that MA organizations should retain the longstanding flexibility to customize benefits, including enhancing benefits and reducing premiums and cost-sharing, for all ''800-series'' EGWPs in order to be able to accommodate the various needs of employer and union group health plan sponsors throughout the year. The proposed prohibition on MYBEs was not intended in any way to limit the current flexibility that MA organizations have to negotiate customized benefit designs for these ''800-series'' employer and union-only types of plans. The proposed rule was merely intended to clarify that these kinds of plans do not need to be exempted from the policy restricting MYBEs because, due to their unique nature, they may continue to enhance benefits for employer and union group health plan sponsors at any point during the contract year without submitting MYBEs to CMS. Accordingly, we are clarifying that MA organizations will retain the flexibility to enhance benefits when offering these kinds of ''800-series'' employer and union-only plans to employer and union group health plan sponsors throughout the year despite being restricted from filing a formal MYBE with CMS. Filing an MYBE is not necessary to exercise this flexibility.

Also, we are further clarifying that MA organizations will continue to be able to accommodate different timing arrangements for different employer or union group health plan sponsors by either contracting with employers and unions on a non-calendar year basis or by entering into new employer and union contracts midyear. MA organizations do not need to file MYBEs to continue to negotiate with employers or unions to provide enhanced benefits on a non-calendar year basis or to enter into midyear contracts with employer and union group health plan sponsors.

Comment: One commenter expressed concern that the MYBE prohibition may

cause employer and union group health plan sponsors to lose the ability to incorporate Medicare in their benefits and thereby negatively affect the ability to reduce health care costs and employers' access to affordable health care.

Response: CMS' longstanding policy allowing enhancement of ''800 series'' EGWP plans for employer and union group health plan sponsors throughout the year, as explained in response to the previous comment, is not being modified by the proposed rule. We are clarifying that the proposed rule does not limit the current flexibility for employer and union group health plan sponsors to continue to contract with MA plans to offer employment-based health coverage that incorporates Medicare benefits (that is, ''800-series'' EGWPs) and thereby enhances the cost effectiveness for employer and union health plan sponsors and the retention of employment-based coverage.

IV. Provisions of the Final Regulations

We are finalizing, with the clarifications described in section III, Analysis of and Responses to Public Comments, the policy specified in the September 1, 2006 proposed rule (71 FR 52014–52017) and section II, Provisions of the Proposed Rule. Beginning in contract year 2008, MA organizations will no longer be permitted to offer midyear benefit enhancements. As discussed in section III of this rule, employer and union group health plans sponsors offering ''800 series'' MA plans will continue to be able to offer benefit enhancements as they do currently, through means other than MYBEs under existing CMS employer group waiver policies. PACE plans are not affected by the prohibition.

We have had the opportunity to reevaluate our MYBE policy over the course of the first 2 contract years of the new bidding process, and we remain convinced that MYBEs are an obstacle to the statutory requirement of a competitive bidding process and that there is no longer a need for this interim policy. As stated in the proposed rule on September 1, 2006, this policy was intended to assist MA organizations during the initial phase of the new bidding process, while ensuring that beneficiaries have a choice of plans. The lack of MYBE applications support this conclusion as we had only one application for a MYBE in CY 2007, and approximately six in CY 2006. Under the new bidding process, the focus is, as it should be in a competitive environment, on establishing a level playing field by ensuring that the initial bidding process is not skewed by the opportunity later in the year to adjust benefits and bids through benefit enhancements. Prohibiting MYBEs will ensure that the focus is squarely on the integrity of the bidding process established by statute.

As indicated in the proposed rule, the rationales for our proposal to prohibit MYBEs remain valid after another year of experience with MYBEs and the bidding process. To summarize those concerns—

- MA organizations, knowing that they could alter their benefit packages after the bidding process was complete, could misrepresent their actual costs (revenue requirements) to provide benefits (overbid) and noncompetitively revise their benefit packages later in the year, once competitors' benefits are known.
- MYBEs offered in July or September of the contract year could be offered primarily to attract individuals in their initial coverage election period (ICEP). We believe that individuals are very attractive to MA organizations because of their relatively low utilization (they are new to the program and tend to be healthier) and because of their numbers (nationally, over 200,000 individuals per month ''age-in'' to Medicare).
- We estimate that organizations planning on revising their bids through MYBEs could overbid by as much as 2 to 3 percent in order to distinguish themselves from other plans later in the year and attract ICEP beneficiaries.
- MYBEs encourage overbidding, and second, penalize MA organizations that do not attempt to ''game the system'' and which instead offer a bid that more accurately represents their costs to offer benefits over the full course of a contract year.
- MYBEs are not consistent with the Part D program (the Part D program does not allow MYBEs).

Finally, based on our experience since permitting MYBEs under even the current limited circumstances, we have found it difficult to determine the credibility of ''excess'' profits an MA organization has for a specific plan (on which MYBEs are based), since the assessment is based only on a few months of incomplete utilization data that occur between the beginning of the calendar year and the MYBE application deadline. Therefore, based on comments received, we are accepting all of the provisions as proposed.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

VI. Regulatory Impact Statement

We have examined the impact of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This rule does not reach the economic threshold and thus is not considered a major rule.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6 million to $29 million in any 1 year. Individuals and States are not included in the definition of a small entity. The MA program, by having both regional and local plans, provides an opportunity for health insurance entities of all types and most sizes (but probably not below the ''small'' insurance entity cutoff level defined by the SBA ($6 million), which is lower than appears viable for a comprehensive, risk-bearing insurance plan) to participate. Therefore, we are not preparing an analysis for the RFA because we have determined that this rule will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We are not preparing an analysis for section 1102(b)

of the Act because we have determined that this rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately $120 million. This rule will have no consequential effect on State, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Since this regulation does not impose any costs on State or local governments, the requirements of E.O. 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 10, 2008.

Kerry Weems,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: March 12, 2008.

Michael O. Leavitt,

Secretary.

[FR Doc. E8–17056 Filed 7–25–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–8033]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

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

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

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

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

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

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

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

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

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

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

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Region IV				
Kentucky: Cloverport, City of, Breckinridge County.	210026	Apr. 17, 1975, Emerg; Sept. 18, 1985, Reg; Aug. 4, 2008, Susp.	Aug. 4, 2008	Aug. 4, 2008.
Tennessee:				
Centerville, Town of, Hickman County ..	470092	Apr. 2, 1975, Emerg; Jan. 16, 1987, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Coffee County, Unincorporated Areas ..	470355	July 24, 1998, Emerg; June 1, 2005, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Cowan, City of, Franklin County	470053	June 11, 1975, Emerg; Mar. 4, 1980, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Decherd, City of, Franklin County	470054	Aug. 14, 1974, Emerg; Mar. 4, 1980, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Estill Springs, City of, Franklin County ..	470272	July 17, 1975, Emerg; May 15, 1986, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Franklin County, Unincorporated Areas	470344	June 12, 1991, Emerg; Jan. 2, 1992, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Hickman County, Unincorporated Areas	470091	Apr. 11, 1985, Emerg; Sept. 1, 1986, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Huntland, City of, Franklin County	470055	Mar. 24, 1998, Emerg; Nov. 1, 1998, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Manchester, City of, Coffee County	470035	Aug. 3, 1973, Emerg; Oct. 17, 1978, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Tullohoma, City of, Coffee County	470036	Aug. 3, 1973, Emerg; Apr. 16, 1979, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Region V				
Illinois:				
Bush, Village of, Williamson County	170784	July 23, 1976, Emerg; Sept. 18, 1985, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Freeman Spur, Village of, Williamson County.	170953	July 3, 2003, Emerg;—, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Herrin, City of, Williamson County	170717	Mar. 6, 1975, Emerg; Apr. 16, 1990, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Hurst, City of, Williamson County	170792	Aug. 22, 1975, Emerg; Sept. 18, 1985, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Johnston City, City of, Williamson County.	170718	July 25, 1975, Emerg; Apr. 1, 1982, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Marion, City of, Williamson County	170719	May 12, 1975, Emerg; Sept. 15, 1983, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Williamson County, Unincorporated Areas.	170934	Apr. 29, 1993, Emerg;—, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Ohio:				
Brunswick, City of, Medina County	390380	Apr. 5, 1973, Emerg; Jan. 2, 1981, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Chippewa Lake, Village of, Medina County.	390910	Feb. 24, 2000, Emerg;—, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Gloria Glens Park, Village of, Medina County.	390381	Sept. 12, 1975, Emerg; Aug. 19, 1985, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Lodi, Village of, Medina County	390382	July 7, 1975, Emerg;—, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Medina, City of, Medina County	390383	May 30, 1975, Emerg; Sept. 30, 1988, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Medina County, Unincorporated Areas	390378	Sept. 6, 1978, Emerg; Aug. 15, 1983, Reg; Aug. 4, 2008, Susp.	.....do *	Do.
Seville, Village of, Medina County	390384	Sept. 23, 1975, Emerg; Apr. 15, 1986, Reg; Aug. 4, 2008, Susp.	.....do *	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Wadsworth, City of, Medina County	390386	July 1, 1975, Emerg; Sept. 4, 1985, Reg; Aug. 4, 2008, Susp.	.....do *	Do.

*-do-=Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: July 18, 2008.

Michael K. Buckley,

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

[FR Doc. E8–17219 Filed 7–25–08; 8:45 am]

BILLING CODE 9110–12–P

Proposed Rules

Federal Register
Vol. 73, No. 145
Monday, July 28, 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 DEPOSIT INSURANCE CORPORATION

12 CFR Part 370

RIN 3064–AD30

Recordkeeping Requirements for Qualified Financial Contracts; Proposed Rule and Notice

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC proposes recordkeeping requirements for qualified financial contracts (QFCs) held by insured depository institutions in a troubled condition as defined in this proposed rule. The appendix to the proposed rule would require an institution in a troubled condition, upon written notification by the FDIC, to produce immediately at the close of processing of the institution's business day, for a period provided in the notification, electronic files for certain position level and counterparty level data; electronic or written lists of QFC counterparty and portfolio location identifiers, certain affiliates of the institution and the institution's counterparties to QFC transactions, contact information and organizational charts for key personnel involved in QFC activities, and contact information for vendors for such activities; and copies of key agreements and related documents for each QFC.

DATES: Comments on this notice of proposed rulemaking must be received by September 26, 2008.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Agency Web Site: http://www.FDIC.gov/regulations/laws/federal/propose.html.* Follow the instructions for submitting comments.
- *Mail:* Robert E. Feldman, Executive Secretary, *Attention:* Comments, Federal Deposit Insurance Corporation, 550 17th St., NW., Washington, DC 20429.
- *Hand Delivery/Courier:* 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. (EST).
- *E-mail: Comments@fdic.gov.* Include ''Recordkeeping Requirements for Qualified Financial Contracts'' in the subject line of the message.
- *Public Inspection:* All Comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal* including any personal information provided. Comments may be inspected and photocopied in the FDIC Public Information Center, 3502 North Fairfax Drive, Room E–1002, Arlington, VA 22226, between 9 a.m. and 5 p.m. (EST) on business days. Paper copies of public comments may be ordered from the Public Information Center by telephone at (877) 275–3342 or (703) 562–2200.

FOR FURTHER INFORMATION CONTACT: R. Penfield Starke, Counsel, Litigation and Resolutions Branch, Legal Division, (703) 562–2422 or *RStarke@FDIC.gov*; Michael B. Phillips, Counsel, Supervision and Legislation Branch, Legal Division, (202) 898–3581 or *MPhillips@FDIC.gov*; Craig C. Rice, Senior Capital Markets Specialist, Division of Resolutions and Receiverships, (202) 898–3501 or *Crrice@FDIC.gov*; Marc Steckel, Section Chief, Capital Markets Branch, Division of Supervision and Consumer Protection, (202) 898–3618 or *MSteckel@FDIC.gov*; Steve Burton, Section Chief, Division of Insurance and Research, (202) 898–3539 or *Sburton@FDIC.gov*, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC.

SUPPLEMENTARY INFORMATION:

I. Background

QFCs are certain financial contracts that have been defined in the Federal Deposit Insurance Act (FDI Act) and that receive special treatment by the FDIC in the event of the failure of an insured depository institution (institution). The special treatment of QFCs after the FDIC's appointment as receiver or conservator for a failed institution initially was codified in the FDI Act as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) [1] and places certain restrictions on the FDIC as receiver [2] for a failed institution that held QFCs.

The FDI Act identifies QFCs using the statutory definition of five specific financial contracts. This statutory list of QFCs consists of securities contracts, commodity contracts, forward contracts, repurchase agreements, and swap agreements.[3] The FDIC also may define other similar agreements as QFCs by rule or order.[4] In addition, a master agreement that governs any contracts in these five categories is treated as a QFC [5] as are security agreements that ensure the performance of a contract from the five enumerated categories.[6]

Under the FDI Act and other U.S. insolvency statutes, a party to QFCs with the insolvent entity can exercise its contractual right to terminate QFCs and offset or net out any amounts due between the parties and apply any pledged collateral for payment.[7] Under the Bankruptcy Code, this right is immediate upon initiation of bankruptcy proceedings, while under the FDI Act, counterparties cannot exercise this contractual right until after 5 p.m. (Eastern Time) on the business day following the appointment of the FDIC as receiver.[8] By contrast, parties to most contracts with insured institutions cannot terminate the contracts based upon the appointment of the FDIC as receiver.[9] The special rights granted by the FDI Act to QFC counterparties are designed to protect the stability of the

[1] Public Law No. 101–73, 103 Stat. 514 (August 9, 1989).

[2] Most of the restrictions applicable to the treatment of QFCs by an FDIC receiver also apply to the FDIC in its conservatorship capacity. *See* U.S.C. 1821(e)(8), (9), (10), and (11). While the treatment of QFCs by an FDIC conservator is not identical to the treatment of QFCs in a receivership, *see* 12 U.S.C. 1821(e)(8)(E) and (10) (B)(i) and (ii), for purposes of this preamble we intend reference to the FDIC in its receivership capacity to include its role as conservator under this statutory authority.

[3] 12 U.S.C. 1821(e)(8)(D)(ii)–(vi).

[4] 12 U.S.C. 1821(e)(8)(D)(i). The FDIC has provided clarifying definitions for repurchase agreements and swap agreements in 12 CFR 360.5.

[5] 12 U.S.C. 1821(e)(8)(D)(ii)(XI), (iii)(IX), (iv)(IV), (v)(V), and (vi)(V).

[6] 12 U.S.C. 1821(e)(8)(D)(ii)(XII), (iii)(X), (iv)(V), (v)(VI), and (vi)(VI).

[7] 12 U.S.C. 1821(e)(8); 11 U.S.C. 555 (securities contracts), 556 (commodities and forward contracts), 559 (repurchase agreements), 560 (swap agreements), and 561 (master netting agreements).

[8] *See* 12 U.S.C. 1821(e)(10)(B).

[9] 12 U.S.C. 1821(e)(13).

financial system and to reduce the potential for cascading interrelated defaults.

If QFC counterparties were unable to terminate and liquidate their positions in a timely manner after the failure of the institution, they would be exposed to market risks and uncertainty regarding the ultimate resolution of QFCs. Absent the ability to terminate a QFC in a timely manner when the counterparty becomes insolvent (which may include exercising rights to offset positions, net payments, and the use of collateral to cover amounts due), the potential for fluctuation in the value of the QFCs from changes in interest rates and other market factors may create market uncertainty that could lead to broader market disruptions. Consequently, while the Bankruptcy Code and the FDI Act generally do not contain provisions covering creditor or counterparty liquidity concerns arising from insolvency proceedings, those statutes do contain safeguards for counterparties that have entered into certain financial contracts under the Bankruptcy Code and the FDI Act.[10] Both of these statutes treat these types of financial contracts differently from other contracts that an entity may have entered into prior to bankruptcy or failure.[11]

Congress, however, recognized the tension between the need of the FDIC as receiver to efficiently resolve a failed institution and the desire to maintain stability in the financial markets. Thus, the treatment of QFCs for failed institutions under the FDI Act provides the FDIC with limited flexibility in crafting a resolution with respect to the institution's QFC portfolio. These provisions allow the FDIC to reduce losses to the deposit insurance fund and retain the value of the failed institution's portfolio, while minimizing the potential for market disruptions that could occur with the liquidation of a large QFC portfolio.

After its appointment as receiver, the FDIC has three options in managing the institution's QFC portfolio: (1) Transfer the QFCs to another financial institution, (2) repudiate the QFCs, or (3) retain the QFCs in the receivership. Within certain constraints, the FDIC can apply different options to QFCs with different counterparties.

First, the receiver may transfer a QFC to any other financial institution not currently in default, including but not limited to foreign banks, uninsured banks, and bridge banks or conservatorships operated by the FDIC. If the receiver transfers a QFC to another financial institution, the counterparty cannot exercise its contractual right to terminate the QFC based solely on the transfer, the insolvency, or the appointment of the receiver.

Second, the FDIC as receiver may repudiate a QFC, within a reasonable period of time, if the receiver determines that the contract is burdensome.[12] If the receiver repudiates the QFC, it must pay actual direct compensatory damages, which may include the normal and reasonable costs of cover or other reasonable measure of damages used in the industry for such claims, calculated as of the date of repudiation.[13] If the receiver determines to transfer or repudiate a QFC, all other QFCs entered into between the failed institution and that counterparty, as well as those QFCs entered into with any of that counterparty's affiliates, must be transferred to the same financial institution or repudiated at the same time.

Third, the FDIC as receiver may retain a QFC in the receivership. This option would allow the counterparty to terminate the contract. If a QFC is terminated by the counterparty or repudiated by the receiver, the counterparty may exercise any contractual right to net any payment the counterparty owes to the receiver on a QFC against any payment owed by the receiver to the counterparty on a different QFC.

The FDIC as receiver has very little time to choose among these three options. Under the FDI Act, the FDIC as receiver has until 5 p.m. (Eastern Time) on the business day following the date of its appointment as receiver to make its decision to transfer any QFCs. During this period, counterparties are prohibited from terminating or otherwise exercising any contractual rights triggered by the appointment of the receiver under the QFC agreements. In effect, the same time limitation applies to repudiation because, after the expiration of this brief stay, counterparties are free to exercise any contractual right to terminate the QFCs and avoid the FDIC's power to repudiate. If the FDIC as receiver decides to transfer any QFCs, it must take steps reasonably calculated to provide notice of the transfer of the QFCs at the failed institution to the relevant counterparties, who are prohibited from exercising such rights thereafter.[14]

To make a well-informed decision on these three options, the FDIC needs access to information such as the types of QFCs, the counterparties and their affiliates, the notional amount and net position on the contracts, the purpose of the contracts, the maturity dates, and the collateral pledged for the contracts. Given the FDI Act's short time frame for such decision by the FDIC, in the case of a QFC portfolio of any significant size or complexity, it may be difficult to obtain and process the large amount of information necessary for an informed decision by the FDIC as receiver unless that information is readily available to the FDIC in a format that permits the FDIC to quickly and efficiently carry out an appropriate financial and legal analysis.

In light of the large volume of information concerning QFCs that a receiver must process in the limited time frame set forth in the FDI Act, the FDIC is proposing QFC recordkeeping requirements for institutions in a troubled condition, as described below. The absence of adequate information for decision-making by the FDIC as receiver increases the likelihood that, in a failed bank situation, QFCs will be left in the receivership or repudiated, instead of transferred to open institutions or a bridge bank. The FDIC does not believe that the proposed QFC recordkeeping requirements are overly burdensome, but encompass information that should be maintained by institutions as part of their risk management of capital market activities. Given the business and related counterparty risks and supervisory considerations, the FDIC believes that the proposed recordkeeping requirements are consistent with safe and sound banking practices by institutions holding QFCs.

II. The Proposed Rule

In 2005, the Bankruptcy Abuse Prevention and Consumer Protection Act[15] was enacted, with section 908 of the Act authorizing the FDIC, in consultation with the other Federal banking agencies, to set recordkeeping requirements for QFCs held in

[10] 11 U.S.C. 555, 556, 559, 560, and 561; 12 U.S.C. 1821(e)(8).

[11] Without such protections for financial contracts and QFCs under the Bankruptcy Code and the FDI Act, respectively, a contract generally will be subject to an automatic stay upon the filing of a bankruptcy petition or the appointment of the FDIC as receiver. *See* 11 U.S.C. 361; 12 U.S.C. 1821(e)(13).

[12] 12 U.S.C. 1821(e)(1).

[13] 12 U.S.C. 1821(e)(3)(C).

[14] *See* 12 U.S.C. 1821(e)(10)(B). This limited time frame in which QFC counterparties are stayed from acting is in contrast to parties to other contracts with a failed institution which may be required to continue to perform by a receiver, and the receiver may stay a party from terminating such other contracts subject to monetary damages or default for up to 90 days.

[15] Public Law No. 109–8, 119 Stat. 23 (April 20, 2005); H.R. Rep. No. 106–834, section 9, at 35 (2000).

institutions determined to be in a ''troubled condition.'' [16] Consistent with this statutory authority, the proposed rule applies to all institutions that are FDIC-insured and have been deemed to be in a troubled condition.

For purposes of this proposed rule, ''troubled condition'' means any insured depository institution that (1) has a composite supervisory rating, as determined by its appropriate Federal banking agency in its most recent examination, of 3 (only if the insured depository institution has total consolidated assets of ten billion dollars or greater), 4 or 5 under the Uniform Financial Institution Rating System, or in the case of an insured branch of a foreign bank, an equivalent rating; (2) is subject to a proceeding initiated by the FDIC for termination or suspension of deposit insurance; (3) is subject to a cease-and-desist order or written agreement issued by the appropriate Federal banking agency, as defined in 12 U.S.C. 1813(q), that requires action to improve the financial condition of the insured depository institution or is subject to a proceeding initiated by the appropriate Federal banking agency which contemplates the issuance of an order that requires action to improve the financial condition of the insured depository institution, unless otherwise informed in writing by the appropriate Federal banking agency; (4) is informed in writing by the insured depository institution's appropriate Federal banking agency that it is in troubled condition for purposes of 12 U.S.C. 1831i on the basis of the institution's most recent report of condition or report of examination, or other information available to the institution's appropriate Federal banking agency; or (5) is determined by the appropriate Federal banking agency or the FDIC in consultation with the appropriate Federal banking agency to be experiencing a significant deterioration of capital or significant funding difficulties or liquidity stress, notwithstanding the composite rating of the institution by its appropriate Federal banking agency in its most recent report of examination.

The third and fourth criteria of the term ''troubled condition'' as defined in this proposed rule are similar to criteria for the definition of that term in other FDIC rules and the rules of the other Federal banking agencies (which generally implement 12 U.S.C. 1831i, regarding the Federal banking agencies' approval of appointment of directors and senior executive officers of institutions).[17] However, the first, second, and fifth criteria for the definition of ''troubled condition'' in the proposed rule differ from the other agencies' rules that implement 12 U.S.C. 1831i.

Consistent with the FDIC's and the other Federal banking agencies' definition of ''troubled condition'' for purposes of 12 U.S.C. 1831i, the first criterion of the definition of ''troubled condition'' in this proposed rule includes institutions with a composite rating, as determined by its appropriate Federal banking agency in its most recent examination, of 4 or 5 under the Uniform Financial Institution Rating System, or in the case of an insured branch of a foreign bank, an equivalent rating. However, for purposes of this first criterion for ''troubled condition'' in this proposed rule, the FDIC has included any insured depository institution with total consolidated assets of ten billion dollars or greater and a composite rating, as determined by its appropriate Federal banking agency in its most recent examination, of 3 under the Uniform Financial Institution Rating System. The inclusion of institutions of such asset size with a composite rating of 3 reflects the risks to the deposit insurance fund arising from large institutions with QFC portfolios for which the appropriate Federal banking agency has assigned a composite rating of 3.

The second criterion of the definition of ''troubled condition'' in this proposed rule reflects the FDIC's responsibility to terminate the deposit insurance of institutions that pose unreasonable risk to the deposit insurance fund. Similarly, the fifth criterion of this definition is based on circumstances that create a significant risk that an institution may require the appointment of the FDIC as receiver.

In accordance with section 11(e)(8)(H) of the FDI Act, we have consulted with the other Federal banking agencies regarding the proposed part 370 and Appendix A. This Notice of Proposed Rulemaking (NPR) reflects various comments from the other Federal banking agencies.

III. Appendix A: QFC Recordkeeping Requirements

Appendix A to proposed Part 370 sets forth the specific QFC recordkeeping requirements proposed in this NPR. These QFC recordkeeping requirements are organized under three categories as provided in Appendix A: (1) Position level data (Table A1), (2) counterparty level data (Table A2), and (3) certain contracts and lists of counterparty affiliates and identifiers, affiliates of the institution that are counterparties to QFC transactions, organizational charts involving the institution and its affiliates, and supporting vendors (Section B). An institution in a troubled condition would be required to maintain the position level data and counterparty data listed under Tables A1 and A2 in electronic files in a format acceptable to the FDIC, and such institutions would be required to demonstrate the ability to produce this information immediately at the close of processing of the institution's business day, for a period provided in a written notification by the FDIC. The files required under Section B are less quantitative and could be maintained in electronic format, in written format, or in a combination of those two formats. Nonetheless, the nature of this information would require that it be updated and available upon request on a daily basis.

The proposed rule and Appendix A are intended to facilitate the ability of the receiver to gather relevant information on QFCs in order to make business decisions within the short time frame between when a failure occurs and when the FDIC as receiver must act under 12 U.S.C. 1821(e)(9) and (10). Also, the data fields and related information required in Appendix A are important for the due diligence by institutions of their QFC agreements in conjunction with their risk management policies and procedures.

For purposes of the proposed rule and Appendix A, ''position'' is defined in the proposed rule to mean the rights and obligations of a person or entity as party to an individual transaction. For example, ''position'' would include the rights and obligations of an institution under a ''Transaction'' (as such term is defined in the 2002 Master Agreement of the International Swaps and Derivatives Association (ISDA)), such as an interest rate swap.

Table A1. Table A1 requires data that must be maintained regarding open QFC positions entered into by that institution.[18] For such data, the institution must demonstrate the ability to produce immediately at the close of processing of the institution's business day, for a period provided in a written notification by the FDIC, a report that aggregates the current market value and

[16] 12 U.S.C 1821(e)(8)(H).

[17] *See* 12 CFR 303.101(c) (FDIC), 12 CFR. 5.51(c)(6) (OCC), 12 CFR 225.71(d) (FRB); and 12 CFR 563.555 (OTS).

[18] These positions include QFCs entered into by affiliates of the insured institution that are covered by the master agreements to which the institution is a party.

the amount of QFCs by each of the delineated fields. In addition, the FDIC also may require a certain combination of recordkeeping fields from Table A1 where significant for purposes of its evaluation of risks associated with the institution's positions.

The following data fields are required in Table A1:

1. *Unique position identifier.* This information would include CUSIP identifiers or unique trade confirmation numbers, if available. This information is needed in order to readily track and distinguish positions.

2. *Portfolio location identifier.* This information would be used to provide the location in which the position is booked by the institution (*e.g.*, the New York or London branch of the institution).

3. *Type of position.* This information describes the products used, sold or traded by an institution. It would include position types such as interest rate swaps, credit default swaps, equity swaps, and foreign exchange forwards, and securities or loan repurchase agreements.

4. *Purpose of the position.* This information identifies the role of the QFC in the institution's business strategy. For example, it would identify whether the purpose of a position is for trading, or for hedging other exposures such as mortgage loan servicing or certificates of deposit.

5. *Termination date.* This date indicates when the institution's rights and obligations regarding the position are expected to end.

6. *Next call, put, or cancellation date.* This information indicates the next date when a call, put, or cancellation may occur with respect to the position.

7. *Next payment date.* This information would include payment dates for potential upcoming obligations.

8. *Current market value of the position.* This information would cover position values as of the date of the file. It would be used to determine if the institution is in-or out-of-the-money with the counterparty.

9. *Unique counterparty identifier.* This information would be used to aggregate positions by counterparty.

10. *Notional or principal amount of the position.* This information is needed to assist in the FDIC's evaluation of the position. It would include the notional amount where applicable.

11. *Documentation status of the position.* This information would document whether the position was affirmed, confirmed, or neither affirmed nor confirmed. It is needed to determine the reliability of booked positions and their legal status.

Table A2. Table A2 requires data that must be maintained at the counterparty [19] level for all QFCs entered into by an institution. For such data, the institution must demonstrate the ability to produce immediately at the close of processing of the institution's business day, for a period provided in a written notification by the FDIC, a report that (i) itemizes, by each counterparty and its affiliates with QFCs with the institution, the data required in each field delineated in Table A2; and (ii) aggregates by field, for each counterparty and its affiliates, the data required in each field. The following data fields are required in Table A2:

1. *Unique counterparty identifier.* This information would be used by the FDIC to aggregate positions by counterparty.

2. *Current market value of all positions.* This data must be aggregated and to the extent permitted under all applicable agreements, netted as of the date of the file. If one or more positions cannot be netted against others, they would be maintained as separate entries.

3. *Current market value of all collateral posted by the institution.* This information would include the current market value of all collateral and the types of collateral, if any, that the institution has posted against all positions with each counterparty.

4. *Current market value of all collateral posted by counterparties.* This information would include the current market value of all collateral and the types of collateral, if any, that the counterparty has posted against all positions.

5. *Institution's collateral excess or deficiency.* This information would be provided with respect to all the positions as determined under each applicable agreement, such as master netting agreements and security agreements. If all positions are not secured by the same collateral, then separate entries should be maintained for each collateral excess and/or deficiency. This information would include thresholds and haircuts where applicable.

6. *Counterparty's collateral excess or deficiency.* This information would be provided with respect to all the positions as determined under each applicable agreement. If all positions are not secured by the same collateral, then separate entries should be maintained for each collateral excess and/or deficiency. This information would include thresholds and haircuts where applicable.

7. *Institution's collateral excess or deficiency for all positions.* This information would be based on the aggregate market value of the positions (after netting to the extent permitted under all applicable agreements) and the aggregate market value of all collateral posted by the institution against the positions, in whole or in part.

B. *Data files and contract information required under Section B:* Section B of Appendix A requires that other data files be maintained in either written or electronic format for QFCs and upon a written request by the FDIC, be produced immediately at the close of processing of the institution's business day, for the period provided in that written request. Each institution must maintain lists of: counterparty identifiers with the associated counterparty and contact information; affiliates of the counterparties that are also counterparties to QFC transactions; affiliates of the institution that are counterparties to QFC transactions, specifically indicating which affiliates are direct or indirect subsidiaries of the institution; and portfolio location identifiers with the associated booking locations.

For each QFC, the institution must maintain copies in a central location or data base in the United States of certain agreements, including active master netting agreements, and other QFC agreements between the institution and its counterparties that govern the QFC; active or ''open'' confirmations, if the position has been confirmed; credit support documents; and assignment documents, if applicable. The institution also must maintain a legal entity organizational chart; an organizational chart of all personnel involved in QFC-related activities at the institution, parent and affiliates; and a list of vendors supporting the QFC-related activities.

IV. Requests for Comment

The FDIC recognizes that the proposed QFC recordkeeping requirements for institutions could not be implemented without some regulatory and financial burden on the industry. The FDIC is seeking to minimize the burden while at the same time ensuring it can quickly and cost effectively resolve an institution in a troubled condition upon its failure. The FDIC seeks comment on the potential industry costs and feasibility of

[19] The use of the term ''Counterparty'' in Appendix A generally includes all entities (including all affiliates) that are effectively treated as a single counterparty under a master agreement.

implementing the requirements of the proposed rule. The FDIC is also interested in comments on whether there are other ways to accomplish its goal of meeting the QFC recordkeeping-related requirements which might be more effective or less costly or burdensome.

For purposes of the final rule, the FDIC seeks comments on all aspects of the proposed rule. In particular, the FDIC seeks comments on these specific issues:

1. Whether the definition of ''troubled condition'' in the proposed rule should be modified in the final rule to include any insured depository institution that has received a composite rating as determined by its appropriate Federal banking agency in its most recent examination, of a 3 under the Uniform Financial Institution Rating System?

2. Whether the QFC recordkeeping requirements in this proposed rule should be applied in the final rule to cover all institutions, regardless of whether they are in a troubled condition? Alternatively, should the proposed rule be applied to cover all institutions, regardless of whether they are in a troubled condition, if they meet certain quantitative thresholds? Possible thresholds are outlined in the following question. Such an expansion of the scope of the proposed rule would be consistent with the important role that the availability of this information will have in the case of the appointment of a receiver or conservator in facilitating an orderly resolution of a failed institution and the reduction of the losses of the deposit insurance fund. Delaying the obligation for such recordkeeping until an institution is in a troubled condition increases the risks of disruption and the potential for losses to the deposit insurance fund. In addition, the requirements imposed by this proposed rule are consistent with the data and records necessary for the safe and sound management of the risks arising from QFC activities. The absence of such prudent management practices increases the risks to the deposit insurance fund. The FDIC's general authority to promulgate rules to protect the deposit insurance fund would provide additional support for this expanded coverage.[20]

3. Whether the QFC recordkeeping requirements in this proposed rule should be applied in the final rule only to institutions that meet certain quantitative thresholds, for example, including (i) the total consolidated assets of the institution exceed a certain threshold (*e.g.* , a minimum total asset size of the institution of $2 billion or more); (ii) the institution's holding of QFCs exceeds a certain total notional or principal amount; (iii) the institution is a party to no fewer than 10 open positions, or (iv) the total notional or principal amount of QFCs held by the institution constitute more than a certain percentage of tier 1 and tier 2 capital under the risk-based capital guidelines of the appropriate Federal banking agency, based on the institution's most recent consolidated Report of Condition and Income (*e.g.*, greater than 20 percent of the institution's tier 1 and tier 2 risk-based capital)? In addition, should the FDIC consider other relevant factors such as the total number of QFC transactions by the institution, the types of QFCs executed by the institution, and the complexity of the QFC positions executed by the institution? Alternatively, should institutions below thresholds of the types described in this question be required to comply with the substantive requirements in proposed part 370 and section B of proposed Appendix A, but be excused from the requirements in Tables A1 and A2 of proposed Appendix A that records be maintained in electronic form?

4. Should the QFC position level data fields in Table A1 of proposed Appendix A be required of affiliates of institutions subject to the proposed rule? Alternatively, should the QFC position level data fields in Table A1 of proposed Appendix A be required for affiliates of the institution that are counterparties to QFC transactions where such transactions are subject to a master agreement that also governs QFC transactions entered into by the institution?

5. Are there additional recordkeeping requirements or modifications to the proposed QFC recordkeeping requirements that would better reflect current internal risk management concerns of institutions?

6. Should the data requirements in proposed Appendix A be tailored to fit specific QFC categories (*e.g.*, repurchase agreements and swap contracts)?

7. Should the FDIC revise its current definition of ''troubled condition'' in 12 CFR 303.102(c) to include the definition of ''troubled condition'' in this proposed rule?

8. The FDIC requests comment concerning (i) the extent to which contracts of institutions and their affiliates are subject to master netting agreements, cross-collateralization agreements, or other master agreements that affect the institutions' net positions or collateral sufficiency with respect to a counterparty;[21] (ii) the extent to which contracts of counterparties and their affiliates are subject to master netting agreements, cross-collateralization agreements, or other master agreements that affect the counterparties' net positions or collateral sufficiency; and (iii) the processes by which such impacts are monitored by institutions, counterparties, and their affiliates, respectively. Please note that such cross-affiliate netting across the insured institution in receivership and its affiliates may be contrary to the provisions of the FDI Act governing the liabilities of the receivership and the distribution of the proceeds of the sale or liquidation of the insured institution's assets if such netting would disadvantage the insured institution and impose losses on the institution in receivership otherwise attributable to contracts by the institution's affiliates.

9. Do any of the data fields required in Tables A1 and A2 of proposed Appendix A call for information that is not relevant to the institutions' and counterparties' legal and economic positions regarding their QFC portfolios? Also, please provide any modifications of the data fields in Tables A1 and A2, in addition to the information required in section B of proposed Appendix A that would be appropriate for the appropriate Federal banking agency and the FDIC to better monitor QFCs entered into by institutions, counterparties, and affiliates of institutions and counterparties that are covered by section B.1 of proposed Appendix A.

10. Under section 370.1(c) of the proposed rule, an insured institution must comply with this rule and Appendix A within 30 days after written notification by the institution's appropriate Federal banking agency or the FDIC that it is in a ''troubled condition'' as defined in the proposed rule. Should the FDIC include in the final rule an approval procedure for requests for an extension of the 30 day deadline from institutions with an aggregate amount of QFCs beyond a certain threshold and based on specific dates for compliance?

11. Should Appendix A be amended to include requirements for a listing of the institution's QFC-related portfolios, those portfolios' risk information, and the specific counterparties associated with those portfolios?

[20] *See* 12 U.S.C. 1819(a) (Tenth); 12 U.S.C. 1821(a)(4)(A).

[21] This situatiions might occur, for example, if an institution and its affiliates were treated as a single party under a master netting agreement, whereby their respective positions would be netted against one another and that net position, in turn, would be netted against the counterparty's positions.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[22] requires an agency publishing a notice of proposed rulemaking to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the final rule on small entities. Under regulations issued by the Small Business Administration,[23] a ''small entity'' includes a bank holding company, commercial bank, or savings association with assets of $165 million or less (collectively, small banking organizations). The RFA provides that an agency is not required to prepare and publish a regulatory flexibility analysis if the agency certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Under section 605(b) of the RFA,[24] the FDIC certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule consists of requirements for institutions that have been determined to be in a troubled condition, as defined in the proposed rule. These requirements include the maintenance of certain information regarding the institution's QFCs that it would be able to produce on short notice by the appropriate Federal banking agency or the FDIC. This proposed rule would not have a significant economic impact on a substantial number of small entities for three reasons. First, QFCs are generally sophisticated financial instruments that are usually used by larger financial institutions to hedge assets, provide funding, or increase income. Because of the nature of the capital markets in which QFCs are used, smaller entities generally do not participate in such markets. Second, the number of small entities affected is further limited due to the proposed rule only being applicable to institutions that are determined to be in a troubled condition under the definition in the rule. Third, the impact on small entities that do use QFCs and are in a troubled condition further is limited by the fact that the information requested by the FDIC involves information that the institution already should have accessible if it is operated in a safe and sound manner.

[22] 5 U.S.C. 603(a).

[23] 13 CFR 121.201.

[24] 5 U.S.C. 605(b).

VI. Paperwork Reduction Act

A. Request for Comment on Proposed Information Collection

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3521, the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC is requesting comment on the proposed information collection requirements contained in this rule. The FDIC also is giving notice that the proposed collection of information has been submitted to OMB for review and approval under section 3506 of the PRA and section 1320.11 of OMB's implementing regulations (5 CFR part 1320).

Comments: In addition to the questions raised elsewhere in this preamble, comment is solicited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) the quality, utility, and clarity of the information to be collected; (4) 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 submission of responses; and (5) estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to provide information.

Commenters may submit comments on aspects of the proposed rule that may affect recordkeeping requirements at the addresses listed in the **ADDRESSES** section of this NPR. In addition, you should send a copy of your comments to the OMB Desk Officer for the FDIC, by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503, or by fax to (202) 395–6974.

B. Proposed Information Collection

Title of Information Collection: Recordkeeping Requirements for Qualified Financial Contracts: Proposed Rule and Notice.

OMB Number: 3064—[NEW].

Frequency of Response: Where applicable under this proposed rule, upon written request of the institution's appropriate Federal banking agency or the FDIC immediately at the close of processing of the institution's business day for a period provided in a written notification by the FDIC.

Affected Public: Insured depository institutions determined to be in a ''troubled condition'' as defined in the rule.

Abstract: The combined annual burden of complying with this proposed rule is estimated to be 9,600 hours. This estimate assumes that 150 institutions will be subject to the requirements of the proposed rule and that such institution will spend, on average, 24 hours annually complying with the proposed reporting requirements and 40 hours annually complying with the proposed records maintenance requirements. Factors considered in developing the burden estimate include the existing and historical average number of insured institutions with supervisory ratings of 3 (for institutions with total consolidated assets of ten billion dollars or greater), 4, or 5; the volume of QFC activity in institutions that presently have supervisory ratings of 3 (where the asset threshold for an institution is met or exceeded), 4, or 5; the time necessary to complete other types of regulatory reports; the frequency with which the FDIC may require institutions to produce QFC information under this proposed rule; and the time necessary to update and maintain QFC and related information as required in the proposed rule.

Estimated Burden: The combined annual burden is estimated to be 9,600 hours. This estimate is derived from the product of the estimated number of institutions that would be subject to the proposed rule and the estimated hours per respondent necessary to meet the proposed rule's reporting and records maintenance requirements. There are an estimated 150 institutions that currently would be subject to the requirements of the proposed rule. Approximately 110 institutions would have been subject to the proposed rule on average over the past 10 years.

The combined reporting and record maintenance burdens related to the proposed rule are estimated at 64 hours per respondent annually. This estimate consists of two components: A reporting component and a records maintenance component. It is estimated that reports as described in Tables A and B of proposed Appendix A will require 2 hours on average to complete. This estimate is based on a number of considerations including the relatively

small number of items requested, the time necessary to complete other regulatory reports, and the reported volume of QFC activity evident within the existing population of institutions that would be subject to the proposed rule. The time necessary to produce such reports could be substantially more than 2 hours for larger institutions with greater QFC volumes.

The FDIC may request the information required in Tables A1 and A2, and section B of Appendix A of the proposed rule relatively frequently or infrequently depending on such factors as the reported volume of an institution's QFC exposures, the number of QFC positions held by an institution (if known), and the near term failure prospects of an institution. For example, the FDIC would be more likely to request the information required to be maintained under this proposed rule and Appendix if the institution has a sizeable volume of reported QFC exposures (measured in carrying values or notational amounts as applicable) relative to that institution's assets or regulatory capital than from an institution with a nominal volume of reported QFC exposures. Similarly, the FDIC likely would require more frequent reporting for institutions with low supervisory ratings. Based on the assumption that 12 reports would be required within a given year for such institutions, the total reporting component of the estimate would be 24 hours per respondent.

It is further estimated that institutions subject to these requirements will spend, on average, an estimated 10 hours per quarter, or 40 hours annually updating and maintaining the records and information required by section B of proposed Appendix A. Again, larger institutions with greater QFC volumes would likely spend considerably more time updating and maintaining records pertaining to QFC activities. Combining the records maintenance and reporting component estimates results in an estimated annual burden of 64 hours per respondent.

Estimated Number of Respondents: 150.

Estimated Time per Response: 64 hours annually per respondent (24 hours—reporting; 40 hours—recordkeeping).

Estimated Total Annual Burden: 9,600 hours.

VII. Solicitation of Comments on the Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act required the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Federal banking agencies invite comment on how to make this proposed rule easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could the rule be more clearly stated?
- Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would make the regulation easier to understand?
- Would more, but shorter sections be better? If so, which sections should be changed?
- What else could we do to make the regulation easier to understand?

List of Subjects in 12 CFR Part 370

Administrative practice and procedure, Bank deposit insurance, Banking, Banks, Reporting and recordkeeping requirements, Savings associations, Securities, State non-member banks.

The Board of Directors of the Federal Deposit Insurance Corporation proposes to amend title 12 of the Code of Federal Regulations by adding a new part 370 to read as follows:

PART 370—RECORDKEEPING REQUIREMENTS FOR QUALIFIED FINANCIAL CONTRACTS

2. Add new part 370 to read as follows:

Sec.
370.1 Scope and purpose, and applicability.
370.2 Definitions.
370.3 Form, availability and maintenance of records.
370.4 Content of records.
Appendix A to Part 370—File Structure for Qualified Financial Contract (QFC) Records

Authority: 12 U.S.C. 1819(a)(Tenth); 1820(g); 1821(e)(8)(D) and (H); 1831g; 1831i, and 1831s.

§ 370.1 Scope, purpose, and applicability.

(a) *Scope.* This part applies to insured depository institutions that are in a troubled condition as defined in § 370.2(f).

(b) *Purpose.* This part establishes recordkeeping requirements with respect to qualified financial contracts for insured depository institutions that are in a troubled condition.

(c) *Applicability.* An insured depository institution shall comply with this part within 30 days after written notification by the institution's appropriate Federal banking agency or the FDIC that it is in a troubled condition under § 370.2(f).

§ 370.2 Definitions.

For purposes of this part:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company.

(b) *Appropriate Federal banking agency* means the agency or agencies designated under 12 U.S.C. 1813(q).

(c) *Insured depository institution* means any bank or savings association, as defined in 12 U.S.C. 1813, the deposits of which are insured by the FDIC.

(d) *Position* means the rights and obligations of a person or entity as a party to an individual transaction under a QFC.

(e) *Qualified financial contracts* (QFCs) mean those qualified financial contracts that are defined in 12 U.S.C. 1821(e)(8)(D) to include securities contracts, commodity contracts, forward contracts, repurchase agreements, and swap agreements and any other contract determined by the FDIC to be a QFC as defined in that section.

(f) *Troubled condition* means for purposes of this part, any insured depository institution that:

(1) Has a composite rating, as determined by its appropriate Federal banking agency in its most recent report of examination, of 3 (only for insured depository institutions with total consolidated assets of ten billion dollars or greater), 4, or 5 under the Uniform Financial Institution Rating System, or in the case of an insured branch of a foreign bank, an equivalent rating;

(2) Is subject to a proceeding initiated by the FDIC for termination or suspension of deposit insurance;

(3) Is subject to a cease-and-desist order or written agreement issued by the appropriate Federal banking agency, as defined in 12 U.S.C. 1813(q), that requires action to improve the financial condition of the insured depository institution or is subject to a proceeding initiated by the appropriate Federal banking agency which contemplates the issuance of an order that requires action to improve the financial condition of the insured depository institution, unless otherwise informed in writing by the appropriate Federal banking agency;

(4) Is informed in writing by the insured depository institution's appropriate Federal banking agency that it is in troubled condition for purposes of 12 U.S.C. 1831i on the basis of the institution's most recent report of condition or report of examination, or

other information available to the institution's appropriate Federal banking agency; or

(5) Is determined by the appropriate Federal banking agency or the FDIC in consultation with the appropriate Federal banking agency to be experiencing a significant deterioration of capital or significant funding difficulties or liquidity stress, notwithstanding the composite rating of the institution by its appropriate Federal banking agency in its most recent report of examination.

§ 370.3 Form, availability and maintenance of records.

(a) *Form and availability.* The records required to be maintained by an insured depository institution for QFCs under this part—

(1) Except for records that must be maintained through electronic files under Appendix A of this part, may be maintained in any form, including in an electronic file, provided that the records are updated at least daily;

(2) If the records are not maintained in written form, will be capable of being reproduced or printed in written form; and

(3) Will be made available upon written request by the institution's appropriate Federal banking agency or the FDIC immediately at the close of processing of the institution's business day, for a period provided in that written request.

(b) *Maintenance of records after the institution is no longer in a troubled condition.* Insured depository institutions that are in a troubled condition as defined in § 370.2(f) shall continue to maintain records required under this part for a period of one year after the date that the appropriate Federal banking agency notifies the institution that it is no longer in a troubled condition as defined in § 370.2(f).

(c) *Maintenance of records after an acquisition of an institution that is in a troubled condition.* If an insured depository institution that has been determined by the appropriate Federal banking agency to be in a troubled condition ceases to exist as an insured depository institution as a result of a merger or a similar transaction into an insured depository institution that is not in a troubled condition immediately following the acquisition, the obligation to maintain records under this part will terminate when the institution in a troubled condition ceases to exist as a separately insured depository institution.

§ 370.4 Content of records.

For each QFC for which an insured depository institution is a party or is subject to a master netting agreement involving the QFC, that institution must maintain records as listed under Appendix A of this part.

Appendix A to Part 370—File Structure for Qualified Financial Contract (QFC) Records

QFC Recordkeeping Requirements

A. Electronic Files To Be Maintained for QFCs

1. Any insured depository institution that is subject to this part (''institution'') must maintain, in an electronic file in a format acceptable to the FDIC, the position level data found in Table A1 for all open positions in QFCs entered into by that institution or to which the institution is subject. In addition, for such data, the institution must, at the FDIC's written request, produce immediately at the close of processing of the institution's business day, for a period provided in that written request, a report in a format acceptable to the FDIC that aggregates the current market value and the amount of QFCs by each of the fields in Table A1. The FDIC also may require in its written requests a certain combination of recordkeeping fields from Table A1 where significant for purposes of its evaluation of risks associated with the institution's positions.

TABLE A1.—POSITION LEVEL DATA

Field	Example	Data application
Unique position identifier and CUSIP, if available.	999999999AU	Information needed to readily track and distinguish positions; unique trade confirmation number if available.
Portfolio location identifier (to identify the headquarters or branch where the position is booked).	XY12Z	Information needed to determine the headquarters or branch where the position is booked (see section B.1 of this Appendix).
Type of position (including the general nature of the reference asset or interest rate).	Interest rate swap, credit default swap, equity swap, foreign exchange forward, securities repurchase agreement, loan repurchase agreement.	Information needed to determine the extent to which the institution is involved in any particular QFC market.
Purpose of the position (if the purpose consists of hedging strategies, include the general category of the item(s) hedged).	Trading, hedging mortgage servicing, hedging certificates of deposit.	Information needed to determine the role of the QFC in the institution's business strategy.
Termination date (date the position terminates or is expected to terminate, expire, mature, or when final performance is required).	3/31/2010	Information needed to determine when the institution's rights and obligations regarding the position are expected to end.
Next call, put, or cancellation date	9/30/08	Information needed to determine when a call, put, or cancellation may occur with respect to a position.
Next payment date	9/30/08	Information needed to anticipate potential upcoming obligations.
Current market value of the position (as of the date of the file).	$995,000	Information needed to determine if the institution is in-or out-of-the money with the counterparty.
Unique counterparty identifier	AB999C	Information needed to aggregate positions by counterparty.
Notional or principal amount of the position (this is the notional amount, where applicable).	$1,000,000	Information needed to help evaluate the position.
Documentation status of position	Affirmed, confirmed, or neither affirmed nor confirmed.	Information needed to determine reliability of a booked position and its legal status.

2. Also, the institution must maintain, in an electronic file in a format acceptable to the FDIC, the counterparty-level data found in Table A2 for all open positions in QFCs entered into by that institution. In addition, the institution must, at the FDIC's written request, produce immediately at the close of processing of the institution's business day, for a period provided in that written request, a report in a format acceptable to the FDIC that (i) itemizes, by each counterparty and by each of its affiliates, the data required in each field in Table A2, and (ii) aggregates by field, for each counterparty and its affiliates, the data required in each field in Table A2.

TABLE A2.—COUNTERPARTY-LEVEL DATA

Field	Example	Data application
Unique counterparty identifier	AB999C	Information needed to aggregate positions by counterparty.
Current market value of all positions, as aggregated and, to the extent permitted under each applicable agreement, netted [1] (as of the date of the file).	($1,000,000)	Information needed to help evaluate the positions.
Current market value of all collateral and the type of collateral, if any, that the institution has posted against all positions with each counterparty.	$950,000; U.S. treasuries	Information needed to determine the extent to which the institution has provided collateral.
Current market value of all collateral and the type of collateral, if any, that the counterparty has posted against all positions.	$50,000; U.S. treasuries	Information needed to determine the extent to which the counterparty has provided collateral.
Institution's collateral excess or deficiency with respect to all the positions, as determined under each applicable agreement including thresholds and haircuts where applicable [2].	($25,000)	Information needed to determine the extent to which the institution has satisfied collateral requirements under each applicable agreement.
Counterparty's collateral excess or deficiency with respect to all the positions with each counterparty, as determined under each applicable agreement including thresholds and haircuts where applicable.	$50,000	Information needed to determine the extent to which the counterparty has satisfied collateral requirements under each applicable agreement.
The institution's collateral excess or deficiency with respect to all the positions, based on the aggregate market value of the positions (after netting to the extent permitted under each applicable agreement) and the aggregate market value of all collateral posted by the institution against the positions, in whole or in part.	($50,000)	Information needed to determine the extent to which the institution's obligations regarding the positions may be unsecured.

B. Other Files (in Written or Electronic Form) To Be Maintained for QFCs

The institution must, at the FDIC's written request, produce the following files immediately at the close of processing of the institution's business day, for a period provided in that written request.

1. Each institution must maintain the following files in written or electronic form:

- A list of counterparty identifiers, with the associated counterparties and contact information;
- A list of the affiliates of the counterparties that are also counterparties to QFC transactions with the institution or its affiliates, and the specific master netting agreements under which they are counterparties;
- A list of affiliates of the institution that are counterparties to QFC transactions where such transactions are subject to a master agreement that also governs QFC transactions entered into by the institution. Such list must specify (i) which affiliates are direct or indirect subsidiaries of the institution and (ii) the specific master agreements under which those affiliates are counterparties to QFC transactions; and
- A list of portfolio identifiers (see Table A1), with the associated booking locations.

2. For each QFC, the institution must maintain all of the following documents:

- Agreements (including master agreements and annexes, supplements or other modifications with respect to the agreements) between the institution and its counterparties that govern the QFC transactions;
- Documents related to and affirming the position;
- Active or ''open'' confirmations, if the position has been confirmed;
- Credit support documents; and
- Assignment documents, if applicable, including documents that confirm that all required consents, approvals, or other conditions precedent for such assignment(s) have been obtained or satisfied.

3. The institution must maintain:

- A legal-entity organizational chart, showing the institution, its corporate parent and all other affiliates, if any; and
- An organizational chart, including names and position titles, of all personnel significantly involved in QFC-related activities at the institution, its parent and its affiliates.
- Contact information for the primary contact person for purposes of compliance with this part by the institution.

4. The institution must maintain a list of vendors supporting the QFC-related activities and their contact information.

Dated at Washington, DC, this 15th day of July, 2008.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E8–16951 Filed 7–25–08; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0735; Directorate Identifier 2008–NM–085–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, MD–10–30F, MD–11, and MD–11F Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain McDonnell Douglas transport category airplanes. The existing AD currently requires modification of the installation wiring for the electric motor-operated auxiliary hydraulic pumps in the right wheel well area of the main landing gear; repetitive inspections of the numbers 1 and 2 electric motors of the auxiliary hydraulic pumps for electrical

resistance, continuity, mechanical rotation, and associated airplane wiring resistance/voltage; and corrective actions if necessary. This proposed AD would, for certain airplanes, also require modifying and rerouting, as applicable, certain components of the wiring of the electric motor for the auxiliary hydraulic pump located in the right wheel well. This proposed AD results from reports of failure of the electric motor for the auxiliary hydraulic pump. We are proposing this AD to prevent failure of the electric motors of the hydraulic pump and associated wiring, which could result in fire at the auxiliary hydraulic pump and consequent damage to the adjacent electrical equipment and/or structure.

DATES: We must receive comments on this proposed AD by September 11, 2008.

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

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

For service information identified in this AD, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024).

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Ken Sujishi, Aerospace Engineer, Cabin Safety/Mechanical and Environmental Systems Branch, ANM–150L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5353; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0735; Directorate Identifier 2008–NM–085–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On February 26, 2004, we issued AD 2004–05–20, amendment 39–13515 (69 FR 11504, March 11, 2004), for certain McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes. That AD requires modification of the installation wiring for the electric motor-operated auxiliary hydraulic pumps in the right wheel well area of the main landing gear, and repetitive inspections of the numbers 1 and 2 electric motors of the auxiliary hydraulic pumps for electrical resistance, continuity, mechanical rotation, and associated airplane wiring resistance/voltage; and corrective actions if necessary. That AD resulted from several reports of failure of the auxiliary hydraulic pump systems on Model DC–10 airplanes. We issued that AD to prevent failure of the electric motors of the hydraulic pump and associated wiring, which could result in fire at the auxiliary hydraulic pump and consequent damage to the adjacent electrical equipment and/or structure.

Actions Since Existing AD Was Issued

Since we issued AD 2004–05–20, we have determined that the actions specified in Boeing Alert Service Bulletin DC10–29A144, Revision 2, dated August 1, 2003, do not completely resolve the unsafe condition for Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes. (We referred to that service bulletin in AD 2004–05–20 as the appropriate source of service information for modifying the installation wiring of the electric motor-operated auxiliary hydraulic pumps in the right wheel well area of the main landing gear for the airplanes listed above and for Model MD–10–10F and MD–10–30F airplanes.) Boeing has now issued new service information, described below, that includes revised procedures to resolve the unsafe condition for Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin DC10–29A148, dated March 20, 2008, for certain McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes. The service bulletin describes procedures for modifying and rerouting, as applicable, certain components of the wiring of the electric motor for the auxiliary hydraulic pump located in the right main landing gear wheel well.

The rerouting involves relocating bracket assemblies to meet certain specified dimensions, or rerouting the brake pressure sensor wire assembly, as applicable.

The modification includes various installations, and investigative (inspections, checks) and corrective actions, as applicable. The installations and the investigative and corrective actions are described below:

- Installing a new support assembly, new nut clips, and new bracket assemblies.
- Inspecting the wire insulation for cracks, splits or tears, and for evidence of wire chafing.
- Replacing wires if necessary.
- Installing protective sleeving.
- Checking the resistance of the electric motor ground wires, and corrective action if the resistance is not within the specified measurement. The corrective action for incorrect resistance involves checking the electrical bond surface; inspecting wires for cracks, damage, corrosion, or cross connection; checking sockets and lugs for proper crimp and ground studs for proper torque; and replacing the wire, socket, lug, and ground stud if necessary.

We have also reviewed Boeing Alert Service Bulletin DC10–29A142, Revision 3, dated October 15, 2005, for McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–

10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, and MD–10–30F airplanes. We referred to Boeing Alert Service Bulletin DC10–29A142, Revision 02, dated April 17, 2003, in AD 2004–05–20 as the appropriate source of service information for doing prior/concurrent actions. The procedures in Revision 3 are essentially the same as those in Revision 02, with editorial changes that do not affect how the actions are done.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other airplanes of the same type design. For this reason, we are proposing this AD, which would supersede AD 2004–05–20, and would retain the requirements of the existing AD. This proposed AD would also require accomplishing the actions specified in Boeing Alert Service Bulletin DC10–29A148 for Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes.

Change to Existing AD

This proposed AD would retain all requirements of AD 2004–05–20. Since AD 2004–05–20 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2004–05–20	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (f).
Paragraph (b)	Paragraph (g).

Costs of Compliance

There are about 409 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Modification (required by AD 2004–05–20).	9	$80	$4,886 to $7,920	$5,606 to $8,640	322	$1,805,132 to $2,782,080.
Inspection (required by AD 2004–05–20).	1	80	$0	$80, per inspection cycle.	322	$25,760, per inspection cycle.
Modification/rerouting (new proposed action).	2 to 18	80	$5,380 to $5,872	$5,540 to $7,312	128	$709,120 to $935,936.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–13515 (69 FR 11504, March 11, 2004) and adding the following new airworthiness directive (AD):

McDonnell Douglas: Docket No. FAA–2008–0735; Directorate Identifier 2008–NM–085–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by September 11, 2008.

Affected ADs

(b) This AD supersedes AD 2004–05–20.

Applicability

(c) This AD applies to McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes; certificated in any category; as identified in the applicable service bulletin listed in Table 1 of this AD.

TABLE 1.—AIRPLANES AFFECTED BY THIS AD

McDonnell Douglas model—	Identified in—	Referenced in—
DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, and MD–10–30F airplanes.	Boeing Alert Service Bulletin DC10–29A144, Revision 2, dated August 1, 2003.	Paragraph (f) of this AD.
MD–11 and MD–11F airplanes	Boeing Alert Service Bulletin MD11–29A059, Revision 2, dated August 1, 2003.	Paragraph (g) of this AD.
DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes.	Boeing Alert Service Bulletin DC10–29A148, dated March 20, 2008.	Paragraph (h) of this AD.

Unsafe Condition

(d) This AD results from reports of failure of the electric motor for the auxiliary hydraulic pump. We are issuing this AD to prevent failure of the electric motors of the hydraulic pump and associated wiring, which could result in fire at the auxiliary hydraulic pump and consequent damage to the adjacent electrical equipment and/or structure.

Compliance

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

Restatement of the Requirements of AD 2004–05–20

Modification/Prior or Concurrent Actions

(f) For Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, and MD–10–30F airplanes listed in Boeing Alert Service Bulletin DC10–29A144, Revision 2, dated August 1, 2003: Within 18 months after April 15, 2004 (the effective date of AD 2004–05–20), do the actions specified in paragraphs (f)(1) and (f)(2) of this AD.

(1) Modify the installation wiring of the electric motor operated auxiliary hydraulic pumps in the right wheel well area of the main landing gear (MLG) (including removing existing clamps, ground wires, if required, and sleeving from the wire assemblies; inspecting for cracks and chafing, installing new support bracket, clips, and bracket assemblies, as applicable; installing sleeving; re-routing and attaching wire assemblies using new clamps and attachments; installing an additional routing clip on the lower bracket of the fuel motor control valve, if applicable; and doing a voltage check and a functional test), per the Accomplishment Instructions of Boeing Alert Service Bulletin DC10–29A144, Revision 2, dated August 1, 2003.

(2) Prior to or concurrently with accomplishment of paragraph (f)(1) or (h) of this AD: Do the actions specified in Boeing Alert Service Bulletin DC10–29A142, Revision 02, dated April 17, 2003; or Revision 3, dated October 15, 2005; (including inspecting the numbers 1 and 2 electric motors of the auxiliary hydraulic pumps for electrical resistance, continuity, mechanical rotation, and associated airplane wiring resistance/voltage; and replacing the auxiliary hydraulic pump with a serviceable pump and repairing the wiring if necessary), per the Accomplishment Instructions of the service bulletin. Repeat the actions after that at intervals not to exceed 2,500 flight hours. After the effective date of this AD, Revision 3 must be used.

(g) For Model MD–11 and MD–11F airplanes listed in Boeing Alert Service Bulletin MD11–29A059, Revision 2, dated August 1, 2003: Within 18 months after April 15, 2004, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Modify the installation wiring of the electric motor auxiliary hydraulic pumps in the wheel well area of the right MLG (including removing and retaining wire assembly clamps, if applicable; retaining the existing ground wire assemblies; retaining or replacing all other wire assemblies for both connectors; installing spiral wrap and sleeving; wrapping upper ends of individual wires with tape; installing new support bracket assemblies, if applicable; re-routing and attaching wire assemblies using new clamps and attachments, if applicable; and doing a voltage check and a functional test), per the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–29A059, Revision 2, dated August 1, 2003.

(2) Prior to or concurrently with accomplishment of paragraph (g)(1) of this AD: Do the actions specified in Boeing Alert Service Bulletin MD11–29A057, Revision 02, dated April 17, 2003 (including inspecting the numbers 1 and 2 electric motors of the auxiliary hydraulic pumps for electrical resistance, continuity, mechanical rotation, and associated airplane wiring resistance/voltage; and replacing the auxiliary hydraulic pump with a serviceable pump and repairing the wiring if necessary), per the Accomplishment Instructions of the service bulletin. Repeat the actions after that at intervals not to exceed 2,500 flight hours.

New Requirements of This AD

Modification and Rerouting

(h) For Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes identified in Boeing Alert Service Bulletin DC10–29A148, dated March 20, 2008: Within 24 months after the effective date of this AD, modify and reroute, as applicable, components of the wiring of the electric motor for the auxiliary hydraulic pump located in the right wheel well, and do all applicable investigative and corrective actions before further flight. Do all actions in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin DC10–29A148, dated March 20, 2008. The concurrent requirements, including the repetitive inspections, of paragraph (f)(2) of this AD continue to apply to these airplanes.

Alternative Methods of Compliance (AMOCs)

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

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

Issued in Renton, Washington, on July 21, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–17198 Filed 7–25–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0772; Directorate Identifier 2008–SW–30–AD]

RIN 2120–AA64

Airworthiness Directives; MD Helicopters, Inc. Model MD900 (including the MD902 Configuration) Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for the specified MD Helicopters, Inc. (MDHI) model helicopters that would require, within 30 days, reducing the current gross weight limit to a maximum gross weight limit of 5,400 pounds and inserting a copy of this AD into the Limitations section of the Rotorcraft Flight Manual (RFM) or making certain optional modifications that constitute terminating actions. This

proposal is prompted by flight tests that show that the information currently listed in the Limitations section of the RFM is inconsistent with the actual performance of the helicopter. The actions specified by the proposed AD are intended to prevent loss of directional control of the helicopter.

DATES: Comments must be received on or before September 26, 2008.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD:

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

You may get the service information identified in this proposed AD from MD Helicopters Inc., *Attn:* Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615, Mesa, Arizona 85215–9734, telephone 1–800–388–3378, fax 480–346–6813, or on the Web at *http://www.mdhelicopters.com*.

FOR FURTHER INFORMATION CONTACT: Chip Adam, Flight Test Pilot, FAA, Los Angeles Aircraft Certification Office, Flight Test Branch, 3960 Paramount Blvd., Lakewood, California 90712–4137, telephone (562) 627–5369, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES**. Include the docket number ''FAA–2008–0772, Directorate Identifier 2008–SW–30–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of our docket web site, you can find and read the comments to any of our dockets, including the name of the individual who sent or signed the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000.

Examining the Docket

You may examine the docket that contains the proposed AD, any comments, and other information in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Operations office (telephone (800) 647–5527) is located in Room W12–140 on the ground floor of the West Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

Discussion

This proposed amendment would apply to MDHI Model MD900 (including the MD902 Configuration) helicopters. This proposed amendment is prompted by flight tests related to a proposed type design change that showed that the critical wind azimuth in hover calculated during original certification as depicted in the Limitations section of the RFM is in error. RFM Figure 2–2, ''Controllability Envelope and Critical Azimuth for Crosswind Operation,'' which shows an envelope of adequate control capability for weights up to the maximum weight in winds of 17 knots or less from any azimuth and in winds of 15 knots or less from the 120° to 135° azimuth region, is inconsistent with the actual performance of the helicopter as demonstrated in recent flight tests. Use of this incorrect information could lead a pilot to believe that, at gross weights and altitudes at or near the upper boundary of the envelope, the helicopter is fully controllable with sustained crosswinds or winds within the critical wind azimuth area; the recent flight tests have shown otherwise. This condition, if not corrected, could result in loss of directional control of the helicopter.

We have reviewed MDHI SB900–099 R1, dated December 27, 2006, which describes procedures for adjusting the directional control system rigging, installing a thruster extension kit, and verifying that a NOTAR fan felt seal, part number (P/N) 900F3441025–103 is installed. The SB specifies that failure to comply with the procedures may result in reduced anti-torque control during certain combinations of high gross weight, density altitude, and wind critical conditions. The SB also indicates that the maximum gross weight of the helicopter will be lowered if the SB is not complied with.

This unsafe condition is likely to exist or develop on other helicopters of the same type designs. Therefore, the proposed AD would require, for helicopters that have not complied with MDHI SB900–099 R1, reducing the gross weight limit to a maximum gross weight limit of 5,400 pounds and inserting a copy of the AD into the Limitations section of the RFM. These actions would be required within 30 days. The proposed AD would also include optional terminating actions for the weight reduction. Those terminating actions would be to:

- Determine if a NOTAR fan felt seal part number (P/N) 900F3441025–103 is installed. If a NOTAR fan felt seal, P/N 900F3441025–103, is not installed, replace the installed seal with an airworthy NOTAR fan felt seal, P/N 900F3441025–103, before further flight; and
- Install a thruster extension kit in accordance with specified portions of the service bulletin described previously.

We estimate that this proposed AD would affect 31 helicopters of U.S. registry. The estimated lost revenue attributable to the gross weight reduction would be $1,750,000 per helicopter over the life of the helicopter. It would take approximately ½ work hour per helicopter to insert the proposed AD into the Limitations section of the RFM; 8 work hours to adjust the directional control system rigging; 8 work hours to install a NOTAR fan felt seal; and 24 work hours to install a thruster extension kit at an average labor rate of $80 per work hour. The NOTAR fan felt seal and thruster extension kit would cost approximately $16,000. However, the manufacturer has stated that they would provide the fan felt seal and the thruster extension kit to all operators at no cost to them and that they will also provide each affected operator a credit for the labor costs for a total of 32 work hours for those work hours required to perform the directional control rigging adjustment (8 work hours) and installation of the thruster extension kit (24 work hours). Based on these figures, the total estimated cost impact of this proposed AD on U.S. operators would be $1,920, assuming (1) the entire fleet chooses to modify their affected helicopter in accordance with the optional terminating action provision of this proposal and there is no reduction in

gross weight necessary, (2) the manufacturer covers all the costs of the parts and the labor costs associated with the rigging adjustment and installation of the thruster extension kit and (3) only 3 helicopters need to have a new fan felt seal installed.

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

We prepared a draft economic evaluation of the estimated costs to comply with this proposed AD. See the AD docket to examine the draft economic evaluation.

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.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

MD Helicopters, Inc.: Docket No. FAA–2008–0772; Directorate Identifier 2008–SW–30–AD.

Applicability: Model MD900 (including MD902 Configuration) helicopters that have not complied with MD Helicopters, Inc. (MDHI) Service Bulletin SB900–099 R1, dated December 27, 2006, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of directional control of the helicopter, accomplish the following:

(a) Within 30 days, reduce the gross weight limit to a maximum gross weight limit of 5,400 pounds by inserting a copy of this AD into the Limitations section of the RFM.

(b) As an optional terminating action for the weight reduction mandated by paragraph (a) of this AD, accomplish the following:

(1) Determine if a NOTAR fan felt seal part number (P/N) 900F3441025–103 is installed. If a NOTAR fan felt seal, P/N 900F3441025–103, is not installed, replace the installed seal with an airworthy NOTAR fan felt seal, P/N 900F3441025–103, before further flight.

(2) Install a thruster extension kit in accordance with the Accomplishment Instructions, paragraph B. (3). through (17). of MDHI SB900–099 R1, dated December 27, 2006 (SB), before further flight. Contacting the manufacturer is not required by this AD.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Los Angeles Aircraft Certification Office, *Attn:* Chip Adam, Flight Test Pilot, FAA, Flight Test Branch, 3960 Paramount Blvd., Lakewood, California 90712–4137, telephone (562) 627–5369, fax (562) 627–5210, for information about previously approved alternative methods of compliance.

(d) Special flight permits will not be issued.

Issued in Fort Worth, Texas, on July 8, 2008.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E8–17262 Filed 7–25–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0071; Directorate Identifier 2006–SW–27–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Model 222, 222B, 222U, 230, and 430 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes superseding an existing airworthiness directive (AD) for Bell Helicopter Textron Canada (BHTC) helicopters. That AD currently requires certain checks and inspections of the tail rotor blades. If a crack is found, the existing AD requires replacing the tail rotor blade (blade) with an airworthy blade before further flight. This action would require the same checks and inspections until they are required to be replaced and would remove certain serial numbered and specifically coded tail rotor blades from the applicability of the AD. This proposal is prompted by the approved rework of certain tail rotor blades and two newly redesigned tail rotor blades, which, if installed, constitutes terminating action for the inspection requirements. The actions specified by the proposed AD are intended to detect a crack in a blade, and to prevent loss of a blade and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 26, 2008.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD:

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

You may get the service information identified in this proposed AD from Bell Helicopter Textron Canada, 12,800 Rue

de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272.

You may examine the comments to this proposed AD in the AD docket on the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES**. Include the docket number ''FAA–2008–0071, Directorate Identifier 2006–SW–27–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of the docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent or signed the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478).

Examining the Docket

You may examine the docket that contains the proposed AD, any comments, and other information in person at the Docket Management System (DMS) Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is located in Room W12–140 on the ground floor of the West Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

Discussion

On February 10, 2005, we issued AD 2005–04–09, Amendment 39–13981 (70 FR 8021, February 17, 2005), that superseded AD 2004–26–11, Amendment 39–13923 (70 FR 7, January 3, 2005), to require the following:

- Within 3 hours time-in-service (TIS), and thereafter at intervals not to exceed 3 hours TIS, clean and visually check both sides of each blade for a crack in the area around the tail rotor feathering bearing. An owner/operator (pilot) may perform this check. Pilots may perform the checks required by paragraph (a) of this AD because they require no tools, can be done by observation, and can be done equally well by a pilot or a mechanic. However, the pilot must enter compliance with these requirements into the helicopter maintenance records by following 14 CFR 43.11 and 91.417(a)(2)(v).
- Within 50 hours TIS, and thereafter at intervals not to exceed 50 hours TIS, clean and inspect both sides of each blade for a crack using a 10X or higher magnifying glass.
- If a crack is found in the blade paint during a visual check or inspection, further inspect the blade as follows, before further flight:
- Remove the blade. Remove the paint to the bare metal in the area of the suspected crack by using plastic metal blasting (PMB) or a nylon web abrasive pad and abrading the blade surface in a span-wise direction only. (The AD incorrectly used the word ''metal'' instead of ''media''.)
- Using a 10X or higher power magnifying glass, inspect the blade for a crack.
- If a crack is found, replace the blade with an airworthy blade before further flight.
- If no crack is found in the blade surface, refinish the blade by applying one coat of epoxy polyamide primer, MIL–P–23377 or MIL–P–85582, so that the primer overlaps the existing coats just beyond the abraded area. Let the area dry for 30 minutes to 1 hour. Then, apply one sealer coat of polyurethane, MILC85285 TYI CL2, color number 27925 (semi-gloss white), per Fed. Std. 595, and reinstall the blade. That action was prompted by reports of cracked blades that were found during scheduled inspections. The requirements of that AD are intended to detect a crack in a blade, and to prevent loss of a blade and subsequent loss of control of the helicopter.

AD 2005–04–09 required the same checks and inspections as AD 2004–26–11, but also expands the applicability of AD 2004–26–11 to include two additional helicopter serial numbers.

Since issuing AD 2005–04–09, BHTC has introduced a rework procedure for the affected tail rotor blades and two new part numbered tail rotor blades that eliminates the need for the recurring checks and inspections.

Transport Canada, the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on the specified BHTC model helicopters. Transport Canada advises of the discovery of cracked blades during scheduled inspections on three occasions. Two cracks originated from the outboard feathering bearing bore underneath the flanged sleeves. The third crack started from the inboard feathering bearing bore. Investigation found that the cracks originated from either a machining burr or a corrosion site in the bearing bore underneath the flanged sleeves.

BHTC has issued Alert Service Bulletin (ASB) No. 222–04–100, Revision B, for Model 222 and 222B helicopters; ASB No. 222U–04–71, Revision B, for Model 222U helicopters; ASB No. 230–04–31, Revision B, for Model 230 helicopters; and ASB No. 430–04–31, Revision C, for Model 430 helicopters, all dated March 31, 2008. The ASBs specify a visual inspection of the blade root end around the feathering bearings for a crack, not later than at the next scheduled inspection, and thereafter at every 3 flight hours maximum. Further, they describe a visual inspection for a crack, to include removing the blade from the helicopter if a crack is found in the paint, within the next 50 flight hours, and thereafter at every 50 flight hours. In addition, the ASBs state that, on or before December 31, 2008, each blade should be reworked by Rotor Blades, Inc., or exchanged if the blade has less than 4,000 hours TIS or if the blade has 4,000 or more hours TIS, the blade should continue to be repetitively inspected or a replacement blade should be ordered. Transport Canada classified these ASBs as mandatory and issued AD CF–2004–21R3, dated April 23, 2008, to ensure the continued airworthiness of these helicopters in Canada.

This proposal differs from the ASB in that it would require, on or before 90 days after the effective date of the AD, replacing all affected tail rotor blades with airworthy tail rotor blades that are not subject to the proposed inspection requirements, without differentiating between blades based on hours TIS. Additionally, operators are not required to send their tail rotor blade to Rotor Blades, Inc. for rework.

These helicopter models are manufactured in Canada and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, Transport Canada

has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

This previously described unsafe condition is likely to exist or develop on other helicopters of the same type designs. Therefore, the proposed AD would supersede AD 2005–04–09, and would apply as follows:

Helicopter model	Helicopter serial No. (S/N)	Blade part No. (P/N)
222	47006 through 47089	222–016–001–123, –123M, –127, –127M, –131, –135, –139M, –141M, except those P/Ns with S/Ns listed in Exceptions 1 and 2 or the ''R'' code described in Exception 3.
222B	47131 through 47156	222–016–001–123, –123M, –127, –127M, –131, –135, –139M, –141M, except those P/Ns with S/Ns listed in Exceptions 1 and 2 or the ''R'' code described in Exception 3.
222U	47501 through 47574	222–016–001–123, –123M, –131, –139M, except those P/Ns with a S/N listed in Exception 2 or the ''R'' code described in Exception 3.
230	23001 through 23038	222–016–001–123, –123M, –131, –139M, except those P/Ns with a S/N listed in Exception 2 or the ''R'' code described in Exception 3.
430	49001 through 49107	222–016–001–123, –123M, –131, –139M, except those P/Ns with a S/N listed in Exception 2 or the ''R'' code described in Exception 3.

Exception 1: Blade, P/N 222–016–001–135 or –141M, S/N A–1502, A–1503, A–1504, A–1505, A–1507, A–1508, A–1509, A–1510, A–1556, A–1557, A–1558, A–1560, A–1561, A–1574, A–1635, A–1636, A–1828, A–1829, and S/Ns with a prefix of ''A'' and a number greater than 1829 have the intent of this proposal accomplished prior to delivery and no further action is required by this proposed AD.

Exception 2: Blade, P/N 222–016–001–131 and –139M, S/N A–2049, A–2055, A–2060, A–2070, A–2071, A–2085, and S/Ns with a prefix of ''A'' and a number greater than 2085 have the intent of this proposal accomplished prior to delivery and no further action is required by this proposed AD.

Exception 3: Blades identified with an ''R'' code in the square block below the P/N field of the Data Plate have already been modified and no further actions are required by this proposed AD.

Note 1: New blades, P/N 222–016–001–139 and –141, with no letter on the Data Plate after the P/N, are not subject to the requirements of this proposed AD.

The proposed AD would require the following:

- Within 3 hours TIS, unless accomplished previously, and thereafter at intervals not to exceed 3 hours TIS, clean and visually check both sides of each blade for a crack in the area around the tail rotor feathering bearing. An owner/operator (pilot) holding at least a private pilot certificate may perform this check. Pilots may perform the checks required by paragraph (a) of this proposed AD because they require no tools, can be done by observation, and can be done equally well by a pilot or a mechanic. However, the pilot must enter compliance with these requirements into the helicopter maintenance records by following 14 CFR 43.11 and 91.417(a)(2)(v).
- Within 50 hours TIS, and thereafter at intervals not to exceed 50 hours TIS, clean and inspect both sides of each blade for a crack using a 10X or higher magnifying glass.
- If a crack is found in the blade paint during a visual check or inspection, further inspect the blade as follows, before further flight:
- Remove the blade. Remove the paint to the bare metal in the area of the suspected crack by using plastic media blasting (PMB) or a nylon web abrasive pad and abrading the blade surface in a span-wise direction only.
- Using a 10X or higher power magnifying glass, inspect the blade for a crack.
- If a crack is found, replace the blade with an airworthy blade before further flight.
- If no crack is found in the blade surface, refinish the blade by applying one coat of epoxy polyamide primer, MIL–P–23377 or MIL–P–85582, so that the primer overlaps the existing coats just beyond the abraded area. Let the area dry for 30 minutes to 1 hour. Then, apply one sealer coat of polyurethane, MILC85285 TYI CL2, color number 27925 (semi-gloss white), per Fed. Std. 595, and reinstall the blade.

Replacing an affected part-numbered blade with a blade that has a S/N that is not subject to or has been excepted from the requirements of this AD, or that has an ''R'' code in the square block below the P/N field of the Data Plate, would be considered a terminating action for the requirements of this proposed AD.

We estimate that this proposed AD would affect 156 helicopters of U.S. registry, and the proposed actions would require:

- Approximately 0.25 work hour for a pilot check, and 2 work hours for a maintenance inspection, at an average labor rate of $80 per work hour;
- Approximately 6 work hours to remove and replace the blade; and
- Parts, which would cost an estimated $13,410 per blade, assuming one blade per helicopter is replaced each year.

Based on these figures, we estimate the total cost impact of the proposed AD on U.S. operators to be $3,090,360, assuming each helicopter would require 200 pilot checks and 12 maintenance inspections prior to replacing a blade on or before the compliance date for all affected helicopters.

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

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

We prepared a draft economic evaluation of the estimated costs to comply with this proposed AD. See the DMS to examine the draft economic evaluation.

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.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–13981 (70 FR 8021, February 17, 2005), and by adding a new airworthiness directive (AD), to read as follows:

Bell Helicopter Textron Canada: Docket No. FAA–2008–0071; Directorate Identifier 2006–SW–27–AD. Supersedes AD 2005–04–09, Amendment 39 13981, Docket No. FAA–2005–20107.

Applicability: The following helicopter models, with a listed helicopter serial number (S/N) and a listed part-numbered tail rotor blade (blade) installed, that does not have an excepted S/N or code, certificated in any category.

Helicopter model	Helicopter S/N	Blade part No. (P/N)
222	47006 through 47089	222–016–001–123, –123M, –127, –127M, –131, –135, –139M, –141M, except those P/Ns with S/Ns listed in Exceptions 1 and 2 or the ''R'' code described in Exception 3.
222B	47131 through 47156	222–016–001–123, –123M, –127, –127M, –131, –135, –139M, –141M, except those P/Ns with S/Ns listed in Exceptions 1 and 2 or the ''R'' code described in Exception 3.
222U	47501 through 47574	222–016–001–123, –123M, –131, –139M, except those P/Ns with a S/N listed in Exception 2 or the ''R'' code described in Exception 3.
230	23001 through 23038	222–016–001–123, –123M, –131, –139M, except those P/Ns with a S/N listed in Exception 2 or the ''R'' code described in Exception 3.
430	49001 through 49107	222–016–001–123, –123M, –131, –139M, except those P/Ns with a S/N listed in Exception 2 or the ''R'' code described in Exception 3.

Exception 1: Blade, P/N 222–016–001–135 or –141M, S/N A–1502, A–1503, A–1504, A–1505, A–1507, A–1508, A–1509, A–1510, A–1556, A–1557, A–1558, A–1560, A–1561, A–1574, A–1635, A–1636, A–1828, A–1829, and S/Ns with a prefix of ''A'' and a number greater than 1829 have the intent of this proposal accomplished prior to delivery and no further action is required by this AD.

Exception 2: Blade, P/N 222–016–001–131 and –139M, S/N A–2049, A–2055, A–2060, A–2070, A–2071, A–2085, and S/Ns with a prefix of ''A'' and a number greater than 2085 have the intent of this proposal accomplished prior to delivery and no further action is required by this AD.

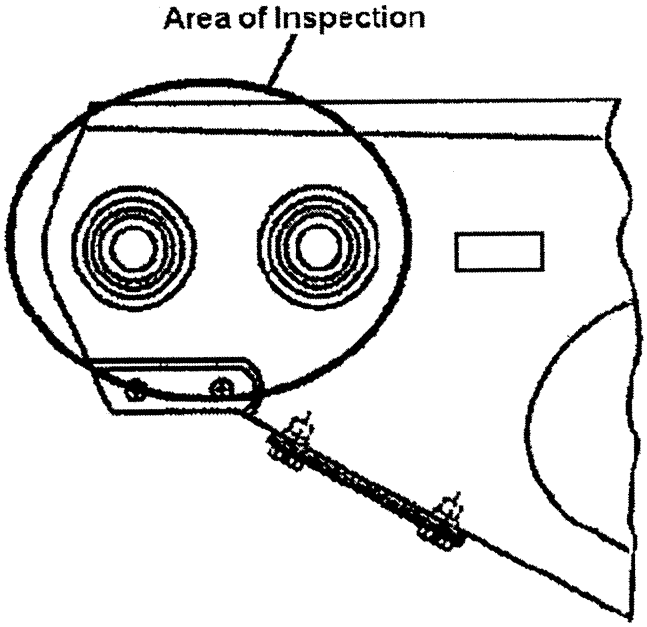
Exception 3: Blades identified with an ''R'' code in the square block below the P/N field of the Data Plate have already been modified and no further actions are required by this AD.

Note 1: New blades, P/N 222–016–001–139 and –141, with no letter on the Data Plate after the P/N, are not subject to the requirements of this AD.

Compliance: Required as indicated.

To detect a crack in a blade, and to prevent loss of the blade and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 3 hours time-in-service (TIS), unless accomplished previously, and thereafter at intervals not to exceed 3 hours TIS, clean and visually check both sides of each blade for a crack in the paint in the areas shown in Figure 1 of this AD. An owner/operator (pilot), holding at least a private pilot certificate, may perform this visual check and must enter compliance with this paragraph into the helicopter maintenance records by following 14 CFR sections 43.11 and 91.417(a)(2)(v).



P/N 222-016-001 – all dash numbers

Figure 1

Blade Inspection Area

Note 2: Bell Helicopter Textron Alert Service Bulletin (ASB) No. 222–04–100, Revision B, for Model 222 and 222B helicopters; ASB No. 222U–04–71, Revision B, for Model 222U helicopters; ASB No. 230–04–31, Revision B, for Model 230 helicopters; and ASB No. 430–04–31, Revision C, for Model 430 helicopters, all dated March 31, 2008, pertain to the subject of this AD.

(b) If the visual check required by paragraph (a) of this AD reveals a crack in the paint, before further flight, remove the blade and follow the requirements in paragraphs (c)(2) through (c)(3)(ii) of this AD.

(c) Within the next 50 hours TIS, unless accomplished previously, and thereafter at intervals not to exceed 50 hours TIS, clean the blade by wiping down both surfaces of each blade in the inspection area depicted in Figure 1 of this AD using aliphatic naphtha (C–305) or detergent (C–318) or an equivalent. Using a 10X or higher power magnifying glass, visually inspect both sides of the blade in the areas depicted in Figure 1 of this AD.

(1) If a crack is found, even if only in the paint, before further flight, remove the blade from the helicopter and proceed with the following:

(2) Remove the paint on the blade down to the bare metal in the area of the suspected crack by using plastic media blasting (PMB) or a nylon web abrasive pad. Abrade the blade surface in a span-wise direction only.

Note 3: PMB may cause damage to helicopter parts if untrained personnel perform the paint removal. BHT–ALL–SPM, chapter 3, paragraph 3–24, pertains to the subject of this AD.

(3) Using a 10X or higher power magnifying glass, inspect the blade for a crack.

(i) If a crack is found, replace the blade with an airworthy blade before further flight.

(ii) If no crack is found in the blade surface, refinish the blade by applying one coat of epoxy polyamide primer, MIL–P–23377 or MIL–P–85582, so that the primer overlaps the existing coats just beyond the abraded area. Let the area dry for 30 minutes to 1 hour. Then, apply one sealer coat of polyurethane, MILC85285 TYI CL2, color number 27925 (semi-gloss white), per Fed. Std. 595. Reinstall the blade.

Note 4: BHT–ALL–SPM, chapter 4, pertains to painting the blade.

(d) On or before 90 days after the effective date of this AD, replace any affected serial-numbered blade with an airworthy blade that has a S/N that is not subject to, or has been excepted from, the requirements of this AD. Installing an airworthy blade that is not subject to the requirements of this AD, or has been excepted from the requirements of this AD, including those blades with an ''R'' code in the square block below the part number field of the Data Plate, constitute a terminating action for the requirements of this AD.

(e) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Safety Management Group, FAA, ATTN: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961, for information about previously approved alternative methods of compliance.

Note 5: The subject of this AD is addressed in Transport Canada (Canada) AD CF–2004–21R3, dated April 23, 2008.

Issued in Fort Worth, Texas, on June 26, 2008.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E8–17261 Filed 7–25–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Parts 122 and 129

[Public Notice 6246]

RIN 1400–AC50

Amendment to the International Traffic in Arms Regulations: Registration Fee Change

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State is proposing to amend the International Traffic in Arms Regulations (ITAR) by increasing the registration fees, changing the registration renewal period, and making other minor administrative changes.

DATES: *Effective Date:* The Department of State will accept comments on this proposed rule until August 27, 2008.

ADDRESSES: Interested parties may submit comments within 30 days of the date of publication by any of the following methods:

E-mail: *DDTCResponseTeam@state.gov* with the subject line: ITAR Regulatory Change, 22 CFR Parts 122 and 129.

Mail: Department of State, Directorate of Defense Trade Controls, ATTN: Regulatory Change, ITAR sections 122 and 129, SA–1, 12th floor, Washington, DC 20522–0112.

Persons with access to the Internet may also view this notice by going to the regulations.gov Web site at: *http://www.regulations.gov/index.cfm*.

FOR FURTHER INFORMATION CONTACT: Patricia Slygh, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663–2830 or FAX (202) 261–8199; e-mail *DDTCResponseTeam@state.gov*, Attn: Regulatory Change, ITAR Parts 122 and 129.

SUPPLEMENTARY INFORMATION: The President has required that the U.S. Department of State initiate a self-financing mechanism so that up to 75% of the Directorate of Defense Trade Controls' (DDTC) mission will eventually be self-financed.

This proposed rule increases the fee charged to those persons required to register with DDTC in accordance with Section 38 of the Arms Export Control Act (AECA) (22 U.S.C. 2778). ITAR registration fees are set forth at 22 CFR 122.3 and were last adjusted in 2004.

To better align registration fees with the cost of licensing, compliance and other related activities, the Department is adopting a three-tier registration fee schedule. The first tier will be a set fee of $2,250 per year for registrants who are renewing a registration, required to register by law and who have not submitted any applications during the twelve month period ending 90 days prior to the expiration of their current registration. This tier includes those registering with the Department for the first time.

The second tier is for registrants who have submitted ten or fewer applications during the twelve month period ending 90 days prior to the expiration of their current registration. For this tier, registrants will pay a set fee of $2,750 per year.

The third tier is for registrants who have submitted more than ten applications during the twelve month period ending 90 days prior to the expiration of their current registration. For this tier, registrants will pay a fee of $2,750 plus an additional fee that is based on the number of applications they submitted during the twelve months ending 90 days prior to the expiration of their current registration. The additional fee will be determined by multiplying $250 times the number of applications over ten submitted during the twelve month period ending 90 days prior to the expiration of the current registration.

Fees for registrants whose total registration fee is greater than 3% of the total value of applications submitted during the twelve month period ending 90 days prior to expiration of the current registration will be reduced to 3% of such total application value or $2,750, which ever is greater. Fees for universities and other registrants who are exempt from income taxation pursuant to 26 U.S.C. 501(c)(3) may be reduced to the first tier registration fee provided proof of such status is submitted with their registration package.

In addition, 22 CFR 129.4(a) and 22 CFR 129.4(b) is revised to reflect the new registration fee schedule.

Regulatory Analysis and Notices

Administrative Procedure Act: This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures contained in 5 U.S.C. 553 and 554.

Regulatory Flexibility Act: Because this proposed rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth in sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604).

Unfunded Mandates Reform Act of 1995: This amendment does not involve 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 year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996: This amendment has been found to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

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

Executive Order 12866: This amendment is exempt from the review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof.

Executive Order 12988: The Department of State has reviewed the proposed regulations in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Paperwork Reduction Act: This 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

22 CFR Part 122

Arms and munitions, Exports, Reporting and recordkeeping requirements.

22 CFR Part 129

Arms and munitions, Exports, Technical assistance.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, parts 122 and 129 are proposed to be amended as follows:

PART 122—REGISTRATION OF MANUFACTURERS AND EXPORTERS

1. The authority citation for part 122 continues to read as follows:

Authority: Secs. 2 and 38, Public Law 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778); E.O. 11958, 42 FR 4311, 1977 Comp. p. 79, 22 U.S.C. 2651a.

2. Section 122.2 is amended by revising paragraph (a) to read as follows:

§ 122.2 Submission of registration statement.

(a) *General.* The Department of State Form DS–2032 (Statement of Registration) and the transmittal letter required by paragraph (b) of this section must be submitted by an intended registrant with a payment (by check or money order) payable to the Department of State of the fee prescribed in § 122.3(a) of this subchapter. Checks and money orders must be in U.S. currency, and checks must be payable through a U.S. financial institution. In addition, the Statement of Registration and transmittal letter must be signed by a senior officer who has been empowered by the intended registrant to sign such documents. The intended registrant also shall submit documentation that demonstrates that it is incorporated or otherwise authorized to do business in the United States. The Directorate of Defense Trade Controls will notify the registrant if the Statement of Registration is incomplete either by notifying the registrant of what information is required or through the return of the entire registration package. Registrants may not establish new entities for the purpose of reducing registration fees.

* * * * *

3. Section 122.3 is amended by revising paragraph (a) to read as follows:

§ 122.3 Registration fees.

(a) A person who is required to register must do so on an annual basis upon submission of a completed Form DS–2032, transmittal letter, and payment of a fee as follows:

(1) *Tier 1:* A set fee of $2,250 per year is required for new registrants or registrants who have not submitted any applications during a 12-month period ending 90 days prior to expiration of the current registration.

(2) *Tier 2:* A set fee of $2,750 per year is required for registrants who have submitted ten or fewer applications during a 12-month period ending 90 days prior to expiration of the current registration.

(3) *Tier 3:* The third tier is for registrants who have submitted more than ten applications during a 12-month period ending 90 days prior to expiration of the current registration. For this tier, registrants will pay a fee of $2,750 plus an additional fee based on the number of applications submitted. The additional fee will be determined by multiplying $250 times the number of applications over ten submitted during a 12-month period ending 90 days prior to expiration of the current registration.

(4) For universities and other registrants exempt from income taxation pursuant to 26 U.S.C. 501(c)(3), their fee may be reduced to the Tier 1 registration fee provided proof of such status is submitted with their registration package.

(5) The fee for registrants whose total registration fee is greater than 3% of the total value of applications submitted during the 12-month period ending 90 days prior to expiration of the current registration will be reduced to 3% of such total application value or $2,750, which ever is greater.

(6) For those renewing a registration, notice of the fee due for the next year's registration will be sent to the Senior Officer signing the previous DS2032 at least 60 days prior to its expiration date.

(7) For purposes of this subsection, ''*applications*'' refers to the actions enumerated within Sections 123 through 125 of the ITAR that require DDTC to review, adjudicate and issue responses to.

* * * * *

PART 129—REGISTRATION AND LICENSING OF BROKERS

4. The authority citation for part 129 continues to read as follows:

Authority: Sec. 38, Pub. L. 104–164, 110 Stat. 1437 (22 U.S.C. 2778).

5. Section 129.4 is amended by revising paragraph (a) to read as follows:

§ 129.4 Registration statement and fees.

(a) *General.* The Department of State Form DS–2032 (Statement of Registration) and the transmittal letter meeting the requirements of § 122.2(b) of this subchapter must be submitted by an intended registrant with a payment by check or money order payable to the Department of State of the fees prescribed in Section 122.3(a) of this subchapter. The Statement of Registration and transmittal letter must be signed by a senior officer who has been empowered by the intended registrant to sign such documents. The intended registrant shall also submit documentation that demonstrates that it is incorporated or otherwise authorized to do business in the United States. The requirement to submit a Department of State Form DS–2032 and to submit documentation demonstrating incorporation or authorization to do business in the United States does not exclude foreign persons from the requirement to register. Foreign persons who are required to register shall provide information that is substantially similar in content as that which a U.S. person would provide under this provision (e.g., foreign business license or similar authorization to do business). The Directorate of Defense Trade Controls will notify the registrant if the Statement of Registration is incomplete either by notifying the registrant of what information is required or through the return of the entire registration package with payment. Registrants may not establish new entities for the purpose of reducing registration fees.

* * * * *

Dated: July 3, 2008.

John C. Rood,

Acting Under Secretary for Arms Control, and International Security, Department of State.

[FR Doc. E8–17232 Filed 7–25–08; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Parts 4, 531, 553, 778, 779, 780, 785, 786, and 790

RIN 1215–AB13

Updating Regulations Issued Under the Fair Labor Standards Act

AGENCY: Wage and Hour Division, Employment Standards Administration, Department of Labor.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: In this proposed rule, the Department of Labor (Department or DOL) proposes to revise regulations issued pursuant to the Fair Labor Standards Act of 1938 (FLSA) and the Portal-to-Portal Act of 1947 (Portal Act) that have become out of date because of subsequent legislation or court decisions. These proposed revisions will conform the regulations to FLSA amendments passed in 1974, 1977, 1996, 1997, 1998, 1999, 2000, and 2007, and Portal Act amendments passed in 1996.

DATES: Comments must be received on or before September 11, 2008.

ADDRESSES: You may submit comments, identified by RIN 1215–AB13, by either one of the following methods:

• *Electronic comments, through the federal eRulemaking Portal: http://*

www.regulations.gov. Follow the instructions for submitting comments.

- *Mail:* Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Regulatory Information Number (RIN) identified above for this rulemaking. Comments received will be posted to *http://www.regulations.gov*, including any personal information provided. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via the federal eRulemaking Portal at *http://www.regulations.gov* or to submit them by mail early. For additional information on submitting comments and the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to the federal eRulemaking Portal at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Richard M. Brennan, Director, Office of Interpretations and Regulatory Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3506, 200 Constitution Avenue, NW., Washington, DC 20210; *telephone:* (202) 693–0051 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TDD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

Questions of interpretation and/or enforcement of regulations issued by this agency or referenced in this notice may be directed to the nearest Wage and Hour Division (WHD) District Office. Locate the nearest office by calling our toll-free help line at (866) 4USWAGE ((866) 487–9243) between 8 a.m. and 5 p.m. in your local time zone, or log onto the WHD's Web site for a nationwide listing of Wage and Hour District and Area Offices at: *http://www.dol.gov/esa/contacts/whd/america2.htm*.

SUPPLEMENTARY INFORMATION:

I. Electronic Access and Filing Comments

Public Participation: This notice is available through the **Federal Register** and the *http://www.regulations.gov* Web site. You may also access this notice via the WHD home page at *http://www.dol.gov/esa/whd/regulations/FLSA2008.htm*. To comment electronically on federal rulemakings, go to the federal eRulemaking Portal at *http://www.regulations.gov*, which will allow you to find, review, and submit comments on federal documents that are open for comment and published in the **Federal Register**. Please identify all comments submitted in electronic form by the RIN docket number (1215–AB13). Because of delays in receiving mail in the Washington, DC area, commenters should transmit their comments electronically via the federal eRulemaking Portal at *http://www.regulations.gov*, or submit them by mail early to ensure timely receipt prior to the close of the comment period. Submit one copy of your comments by only one method.

II. Request for Comment

The Department requests comments on all issues related to this notice of proposed rulemaking. This proposed rule, if implemented as a final rule, will enhance the Department's enforcement of, and the public's understanding of, compliance obligations under the FLSA by replacing out of date regulations. The changes will not result in additional compliance costs for regulated entities. Updating the existing outdated regulatory provisions to reflect current law may result in cost savings through the avoidance of inadvertent violations and the costs of corrective compliance measures to remedy them.

III. Discussion of Changes

The FLSA requires covered employers to pay their nonexempt employees a federal minimum wage and overtime premium pay of time and one-half the regular rate of pay for hours worked in excess of forty (40) in a work week. The FLSA also contains a number of exemptions from the minimum wage and overtime pay requirements.

Over the years, Congress has amended the FLSA to refine or to add to these exemptions and to clarify the minimum wage and overtime pay requirements. As part of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Public Law 110–28 (May 25, 2007), Congress increased the FLSA minimum wage in three steps: to $5.85 per hour effective July 24, 2007; to $6.55 per hour effective July 24, 2008; and to $7.25 per hour effective July 24, 2009. As part of the Small Business Job Protection Act of 1996, Congress amended section 4(a) of the Portal Act, 29 U.S.C. 254(a), to define circumstances under which pay is not required for employees who use their employer's vehicle for home-to-work commuting purposes. The 1996 Act also created a youth opportunity wage at $4.25 per hour under section 6(g) of the FLSA, 29 U.S.C. 206(g). In 1997, Congress amended section 13(b)(12) of the FLSA, 29 U.S.C. 213(b)(12), to expand the exemption from overtime pay for workers on ditches, canals, and reservoirs where 90% (rather than 100%) of the water is used for agricultural purposes. In 1998, Congress added section 3(e)(5) to the FLSA, 29 U.S.C. 203(e)(5), to provide that the term ''employee'' does not include individuals who volunteer solely for humanitarian purposes to private non-profit food banks and who receive groceries from those food banks. In 1999, Congress added section 3(y) to the FLSA, 29 U.S.C. 203(y), to define an employee who is engaged in ''fire protection activities.'' In 2000, Congress added section 7(e)(8) to the FLSA, 29 U.S.C. 207(e)(8), to treat stock options meeting certain criteria as an additional type of remuneration that is excludable from the computation of the regular rate. A 1974 amendment to section 13(b)(10)(B) of the FLSA, 29 U.S.C. 213(b)(10)(B), extended an overtime exemption to include any salesman primarily engaged in selling boats and eliminated the overtime exemption previously in subsection (B) for partsmen and mechanics servicing trailers or aircraft. In addition, several appellate courts interpret the overtime exemption for ''any salesman, partsman, or mechanic primarily engaged in selling and servicing automobiles'' in section 13(b)(10)(A) of the FLSA, 29 U.S.C. 213(b)(10)(A), as including service advisors.

A number of courts have examined the proper interpretation of the FLSA's compensatory time provisions in section 7(o)(5) concerning public agency employers' obligation to grant employees' requests to use ''comp time'' within a ''reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the public agency.'' 29 U.S.C. 207(o)(5). Finally, the regulations governing the ''fluctuating workweek'' method of computing half-time overtime pay for salaried nonexempt employees who work variable or fluctuating hours from

week to week are in need of clarification and updating to delete outmoded examples and eliminate confusion over the effect of paying bonus supplements and premium payments to affected employees.

As discussed in more detail below, as a result of these amendments and court decisions, this proposed rule revises a number of out-of-date regulations issued under the FLSA and the Portal Act.

1. 2007 Amendment to the FLSA Minimum Wage

On May 25, 2007, President Bush signed into law the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Pub. L. 110–28). As part of that legislation, Congress amended the FLSA by increasing the applicable federal minimum wage under section 6(a) of the FLSA in three steps: to $5.85 per hour effective July 24, 2007; to $6.55 per hour effective July 24, 2008; and to $7.25 per hour effective July 24, 2009.

This legislation did not change the definition of ''wage'' in section 3(m) of the FLSA for purposes of applying the tip credit formula in determining the wage paid to a qualifying tipped employee. Thus, the minimum required cash wage for a tipped employee under the FLSA remains $2.13 per hour. The maximum allowable tip credit for federal purposes under the FLSA increases as a result of the 2007 legislation, and is determined by subtracting $2.13 from the applicable minimum wage provided by section 6(a)(1) of the FLSA. *See* 29 U.S.C. 203(m).

Changes are proposed in several of the FLSA's implementing regulations that cite to the applicable minimum wage to reflect these statutory changes, including at 29 CFR 531.36, 531.37, 778.110, 778.111, 778.113, and 778.114. Additional revisions to the McNamara-O'Hara Service Contract Act regulations eliminate outdated references to the FLSA minimum wage in 29 CFR 4.159 and 4.167.

2. Small Business Job Protection Act of 1996

On August 20, 1996, Congress enacted the Small Business Job Protection Act of 1996 (SBJPA), Public Law No. 104–188, 100 Stat. 1755. SBJPA amended the Portal Act to define circumstances under which pay is not required for employees who use their employer's vehicle for home-to-work commuting purposes and also amended the FLSA by creating a youth opportunity wage and modifying the allowable tip credit.

A. Employee Commuting Flexibility Act of 1996

Sections 2101 through 2103 of Title II of SBJPA, entitled the ''Employee Commuting Flexibility Act of 1996,'' amended section 4(a) of the Portal Act, 29 U.S.C. 254(a). The amendment, effective upon enactment, provides that

> The use of an employer's vehicle for travel by an employee and activities performed by an employee which are incidental to the use of such vehicle for commuting shall not be considered part of the employee's principal activities if the use of such vehicle for travel is within the normal commuting area for the employer's business or establishment and the use of the employer's vehicle is subject to an agreement on the part of the employer and the employee or representative of such employee.

Employee Commuting Flexibility Act of 1996, Section 2102, 29 U.S.C. 254(a).

The House Committee Report states that the purpose of the amendment is to clarify how the Portal Act applies to ''employee use of employer-provided vehicles for commuting at the beginning and end of the workday.'' H.R. Rep. No. 104–585, at 6 (1996). It states that such travel time is to be considered noncompensable if the use of the vehicle is ''conducted under an agreement between the employer and the employee or the employee's representative.'' *Id.* The agreement may be a formal written agreement, a collective bargaining agreement, or an understanding based on established industry or company practices. *Id.* In addition, ''the work sites must be located within the normal commuting area of the employer's establishment.'' *Id.* at 4–5. Activities that are merely incidental to the use of the vehicle for commuting at the start or end of the day are similarly noncompensable, such as communication between the employee and employer to obtain assignments or instructions, or to report work progress or completion. *Id.* at 5.

This statutory amendment to the Portal Act affects certain regulations in 29 CFR parts 785 and 790 issued pursuant to the FLSA and the Portal Act. Current section 785.9(a) explains the statutory provisions that eliminate from working time certain ''preliminary'' and ''postliminary'' activities performed prior to or subsequent to the workday. To incorporate this amendment, this proposed rule adds to that section the new provision that activities that are incidental to the use of an employer-provided vehicle for commuting are not considered principal activities, and are not compensable, when they meet the conditions of the amendment. Current § 785.34 discusses the effect of section 4 of the Portal Act on determining whether time spent in travel is working time. This proposed rule adds a reference to the statutory conditions under which commuting in an employer-provided vehicle will not be considered part of the employee's principal activities and will not be compensable. The proposed rule also revises §§ 785.50 and 790.3 to incorporate the 1996 amendment into the quotation of section 4 of the Portal Act.

B. Youth Opportunity Wage

Section 2105 of the SBJPA amended the FLSA by adding section 6(g), which provides that ''[a]ny employer may pay any employee of such employer, during the first 90 consecutive calendar days after such employee is initially employed by such employer, a wage which is not less than $4.25 an hour.'' 29 U.S.C. 206(g)(1). This subminimum wage ''shall only apply to an employee who has not attained the age of 20 years.'' 29 U.S.C. 206(g)(4). The amendment also protects current workers by prohibiting employers from taking action to displace employees, including reducing hours, wages, or employment benefits, for the purpose of hiring workers at the opportunity wage. It also states that any employer violating this subsection shall be considered to have violated the anti-discrimination provisions of section 15(a)(3) of the FLSA. 29 U.S.C. 206(g)(3).

In this proposed rule, the Department adds a new subpart G to 29 CFR part 786—which will be renamed Miscellaneous Exemptions and Exclusions From Coverage—to set forth the provisions of this new youth opportunity wage.

C. Minimum Wage Increase Act of 1996

Section 2105 of Title II of the SBJPA, entitled the ''Minimum Wage Increase Act of 1996,'' amended section 3(m) of the FLSA, 29 U.S.C. 203(m), by providing that

> In determining the wage an employer is required to pay a tipped employee, the amount paid such employee by the employee's employer shall be an amount equal to—
>
> (1) The cash wage paid such employee which for purposes of such determination shall be not less than the cash wage required to be paid such an employee on the date of the enactment of this paragraph; and
>
> (2) An additional amount on account of the tips received by such employee which amount is equal to the difference between the wage specified in paragraph (1) and the wage in effect under section 6(a)(1).
>
> The additional amount on account of tips may not exceed the value of the tips actually received by an employee. The preceding 2

sentences shall not apply with respect to any tipped employee unless such employee has been informed by the employer of the provisions of this subsection, and all tips received by such employee have been retained by the employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.

Public Law No. 104–188, § 2105(b) (1996). Prior to the 1996 amendments, section 3(m) of the FLSA required an employer to pay its tipped employees a cash wage equal to 50 percent of the minimum wage (then $4.25 an hour). *See* Public Law No. 101–157, § 5 (1989); Public Law No. 93–259, § 13(e) (1974); 29 CFR 531.50. As amended, section 3(m)(1) provides that an employer's minimum cash wage obligation to its tipped employees is the minimum cash wage required on August 20, 1996, the date of the SBJPA enactment. Thus, section 3(m)(1) established an employer's cash wage obligations to tipped employees at the pre-SBJPA amount: 50 percent of the then-minimum wage of $4.25 per hour, or $2.13 per hour. *See* 29 U.S.C. § 203(m)(1).

Subsection (2) of the 1996 amendments bases an employer's maximum allowable tip credit on a specific formula in relation to the applicable minimum wage, stating that an employer may take a tip credit equal to the difference between the required minimum cash wage specified in paragraph 3(m)(1) ($2.13) and the minimum wage (now $5.85). Thus, the maximum tip credit that an employer currently is permitted to claim is $5.85 minus $2.13, or $3.72 per hour. (Effective July 24, 2008, the minimum wage required by the FLSA will increase to $6.55 an hour, resulting in a maximum federal tip credit limited to $4.42 an hour. Effective July 24, 2009, the minimum wage required by section 6(a)(1) of the FLSA will increase to $7.25 an hour, resulting in a maximum federal tip credit limited to $5.12 an hour.)

This 1996 amendment affects certain regulations in 29 CFR part 531. Current § 531.50(a) quotes section 3(m) of the FLSA as it appeared before the 1996 amendments. To incorporate the 1996 amendment, this proposed rule replaces the old statutory language with the current statutory provision. Current §§ 531.56(d), 531.59, and 531.60 refer to the pre-1996 statutory language setting the tip credit at 50 percent of the minimum wage. The proposed rule deletes or changes these references to reflect the current statutory requirements (tip credit equaling the difference between the minimum wage required by section 6(a)(1) of the FLSA and the $2.13 required cash wage). Additional changes related to tipped employees are discussed in this preamble at sections 7B and 8, *infra.*

3. Agricultural Workers on Water Storage/Irrigation Projects

Section 105 of The Departments of Labor, Health, and Human Services, Education, and Related Agencies Appropriations Act, Public Law No. 105–78, 111 Stat. 1467 (Nov. 13, 1997), amended section 13(b)(12) of the FLSA, 29 U.S.C. 213(b)(12), which provides an overtime exemption for agricultural employees and employees employed in connection with the operation or maintenance of certain waterways used for supply and storing of water for agricultural purposes. The 1997 amendment deleted ''water for agricultural purposes'' and substituted ''water, at least 90 percent of which was ultimately delivered for agricultural purposes during the preceding calendar year.'' Thus, this amendment makes the exemption from overtime pay requirements applicable to workers on water storage and irrigation projects where at least 90 percent of the water is used for agricultural purposes, rather than where the water is used exclusively for agricultural purposes.

In this proposed rule, the Department updates the regulations in 29 CFR part 780, Subpart E to incorporate the statutory amendment. Thus, proposed § 780.400 correctly quotes the statute, including the amendment. Section 780.401 provides an updated general explanatory statement of the history of the exemption. Section 780.406 deletes the last sentence of the current rule, which refers to the 1966 amendments, as no longer necessary. Finally, § 780.408 is updated to describe the ''at least 90 percent'' requirement for using the water for agricultural purposes.

4. Certain Volunteers at Private Non-Profit Food Banks

Section 1 of the Amy Somers Volunteers at Food Banks Act, Public Law No. 105–221, 112 Stat. 1248 (Aug. 7, 1998), amended section 3(e) of the FLSA, 29 U.S.C. 203(e), by adding section (5) to provide that the term ''employee'' does not include individuals volunteering solely for humanitarian purposes at private non-profit food banks and who receive groceries from those food banks given in recognition of such individual's needs and not in exchange for such individual's services. 29 U.S.C. 203(e)(5). This proposed rule renames 29 CFR part 786 to ''Miscellaneous Exemptions and Exclusions From Coverage'' and adds Subpart H to set forth this exclusion from FLSA coverage.

5. Employees Engaged in Fire Protection Activities

In 1999, Congress amended section 3 of the FLSA, 29 U.S.C. 203, by adding section (y) to define ''an employee in fire protection activities.'' This amendment states that an ''employee in fire protection activities'' means

an employee, including a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous material worker, who—(1) is trained in fire suppression, has the legal authority and responsibility to engage in fire suppression, and is employed by a fire department of a municipality, county, fire district, or State; and (2) is engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

Public Law No. 106–151, 113 Stat. 1731 (1999); 29 U.S.C. 203(y). Such employees may be covered by the partial overtime exemption allowed by § 7(k) or the overtime exemption for public agencies with fewer than five employees in fire protection activities pursuant to § 13(b)(20). 29 U.S.C. 207(k); 213(b)(20).

This proposed rule makes several revisions to 29 CFR part 553, Subpart C, to incorporate this amendment. In the first sentence of proposed § 553.210(a), the statutory amendment language is substituted for the current four-part regulatory definition of the term ''any employee * * * in fire protection activities.'' The proposed rule also deletes the last sentence of current section 553.210(a) stating that, ''[t]he term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's fire protection services,'' and it deletes the cross-reference to section 553.215. The ''integral part'' test for the public agency employees is no longer needed because the new statutory standards define when such rescue and ambulance personnel qualify as employees in fire protection activities. Section 553.215(a) of the current rule discusses ambulance and rescue service employees who are employees of a public agency other than a fire protection or law enforcement agency. The section 3(y) amendment, however, specifically states that one of the requirements to be an ''employee in fire protection activities'' is that the employee is employed by a fire department of a municipality, county, fire district, or State. The proposed rule, therefore, deletes section 553.215(a)

because it permits non-fire department public agencies to treat their ambulance and rescue service employees as employees engaged in fire protection activities, contrary to the new statutory conditions. This proposed rule also deletes §§ 553.215(b) (stating that rescue service employees of hospitals and nursing homes cannot qualify for the exemption) and 553.215(c) (stating that ambulance and rescue service employees of private organizations do not come within the exemption) as unnecessary in light of the clear statutory requirement for employment by a fire department. Finally, in §§ 553.221, 553.222, 553.223, and 553.226, the Department is substituting ''employee in fire protection activities'' or ''employees in fire protection activities,'' respectively, wherever the terms ''firefighter'' or ''firefighters'' appeared.

The Department reexamined the other regulations in part 553, Subpart C, in light of the section 3(y) amendment to assess whether any other changes were appropriate. Current § 553.210 characterizes as exempt work related incidental activities such as equipment maintenance, lecturing and fire prevention inspections. Current § 553.210 also recognizes that employees can come within the exemption whether their status is ''trainee,'' ''probationary,'' or ''permanent,'' and regardless of their particular specialty or job title or assignment to certain support activities. The Department believes that these provisions are consistent with statutory intent and remain the appropriate interpretation of the new statutory definition and, thus, makes no further changes to section 553.210.

Current section 553.212 recognizes that exempt employees may engage in some nonexempt work, such as firefighters who work for forest conservation agencies and who plant trees and perform other conservation activities unrelated to their firefighting duties during slack times. The Department reexamined this regulation, particularly in light of the court's decision in *McGavock* v. *City of Water Valley,* 452 F.3d 423 (5th Cir. 2006). That court noted that the Department had not updated its regulations since the passage of section 3(y). It found that the regulation at § 553.210, defining an employee in fire protection activities, was supplanted by the amendment. It also concluded that the 20% tolerance for nonexempt work in § 553.212 simply put a gloss on the pre-existing regulatory definition. Therefore, the court concluded that §§ 553.210 and 553.212 were ''obsolete and without effect.'' 452 F.3d at 428. *See also Huff* v. *DeKalb County, Ga.,* 516 F.3d 1273, 1278 (11th Cir. 2008) (agreeing that new section 3(y) is a streamlined definition that made existing provisions in §§ 553.210 and 553.212 obsolete). Congress stated in section 3(y) that an employee must be ''engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk'' in order to qualify as an employee in fire protection activities. 29 U.S.C. 203(y). Congress thus defined emergency medical response work as exempt work, when performed by an employee who meets the other tests in section 3(y). This proposed rule therefore deletes § 553.212 as unnecessary in light of the court decisions and statutory amendment.

6. Stock Options Excluded From the Computation of the Regular Rate

The Worker Economic Opportunity Act, Public Law No. 106–202, 114 Stat. 308, enacted by Congress on May 18, 2000, amended §§ 7(e) and 7(h) of the FLSA. 29 U.S.C. 207(e), (h). In § 7(e), a new subsection (8) adds ''[a]ny value or income derived from employer-provided grants or rights provided pursuant to a stock option, stock appreciation right, or bona fide employee stock purchase program'' meeting particular criteria to the types of remuneration that are excluded from the computation of the regular rate. In § 7(h), the amendment clarifies that the amounts excluded under § 7(e) may not be counted toward the employer's minimum wage requirement under section 6, and that extra compensation excluded pursuant to the new subsection (8) may not be counted toward overtime pay under § 7.

The proposed rule incorporates the amendments made by the Worker Economic Opportunity Act by adding to the regulatory provisions which simply quote the statute in section 778.200(a) and (b). Section 778.208 also is revised simply to update from ''seven'' to ''eight'' the number of types of remuneration excluded in computing the regular rate.

7. Fair Labor Standards Act Amendments of 1974

A. Service Advisors Working for Automobile Dealerships and Boat Salespersons

On April 7, 1974, Congress enacted an amendment to section 13(b)(10)(B) of the FLSA, 29 U.S.C. 213(b)(10)(B). Public Law No. 93–259, 88 Stat. 55 (1974). This amendment added an overtime exemption for salespersons primarily engaged in selling boats (in addition to the pre-existing exemption for sellers of trailers or aircraft). This amendment also eliminated the overtime exemption for partsmen and mechanics servicing trailers or aircraft. This proposed rule revises 29 CFR part 779, Subpart D—Exemptions for Certain Retail or Service Establishments, so that the regulations implementing section 13(b)(10)(B) conform to this 1974 amendment. Section 779.371(a) is revised to reflect the amendment's addition of boat salespersons to the exemption. Proposed § 779.372(a) now clarifies that salespersons primarily engaged in selling trailers, boats, or aircraft, but not partsmen or mechanics for such vehicles, are covered by the exemption; portions of § 779.372(b) and (c) also are changed accordingly.

Section 13(b)(10)(A) of the FLSA provides that ''any salesman, partsman, or mechanic engaged in selling or servicing automobiles, trucks or farm implements, if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles or implements to ultimate purchasers'' shall be exempt from the overtime requirements of the Act. 29 U.S.C. 213(b)(10)(A). The current regulation at 29 CFR 779.372(c)(4) states that an employee described as a service manager, service writer, service advisor, or service salesman, is not exempt under section 13(b)(10)(A).

Uniform appellate and district court decisions, however, hold that service advisors are exempt under section 13(b)(10)(A) because they are ''salesmen'' who are primarily engaged in ''servicing'' automobiles. *See, e.g., Walton* v. *Greenbrier Ford, Inc.*, 370 F.3d 446, 452 (4th Cir. 2004) (The current regulatory interpretation of this exemption is ''an impermissibly restrictive construction of the statute.''); *Brennan* v. *Deel Motors, Inc.*, 475 F.2d 1095, 1097 (5th Cir. 1973) (Service advisors are ''functionally similar to the mechanics and partsmen who service the automobiles. All three work as an integrated unit, performing the services necessary * * * with the service salesman coordinating these specialties.''); *Brennan* v. *North Brothers Ford, Inc.*, 1975 WL 1074 at *3 (E.D. Mich. 1975) (unpublished) (''The spirit of 13(b)(10) is best fulfilled by recognizing the functional similarity of service salesmen to partsmen and mechanics which are both expressly exempted.''), *aff'd sub. nom. Dunlop* v. *North Brothers Ford, Inc.*, 529 F.2d 524 (6th Cir. 1976) (Table).

Based upon the court decisions, the Wage and Hour Division has adopted an enforcement position since 1987 that Wage and Hour ''will no longer deny the [overtime] exemption for such employees,'' and that the regulation would be revised. *See* Wage and Hour Division Field Operations Handbook (FOH) section 24L04(k). Therefore, this proposed rule changes § 779.372(c), entitled ''Salesman, partsman, or mechanic,'' to follow the courts' consistent holdings that employees performing the duties typical of service advisors are within the section 13(b)(10)(A) exemption. Section 779.372(c)(1) is revised to include such an employee as a salesman primarily engaged in servicing automobiles. Section 779.372(c)(4) is rewritten to clarify that such employees qualify for the exemption.

B. Tipped Employees

Section 3(m) of the FLSA defines the term ''wage'' and includes conditions for taking tip credits when making wage payments to qualifying tipped employees under the FLSA. The Department's tip credit regulations were promulgated in 1967, one year after hotels and restaurants were brought under the FLSA. Section 13(e) of the Fair Labor Standards Act Amendments of 1974 amended the last sentence of section 3(m) by providing that an employer could not take a tip credit unless:

> (1) [its] employee has been informed by the employer of the provisions of this subsection and (2) all tips received by such employee have been retained by the employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.

Public Law No. 93–259, § 13(e), 88 Stat. 55.

Prior notice by the employer to employees of the employer's intent to avail itself of the tip credit is a statutory requirement pursuant to the 1974 amendments. Courts have disallowed the use of the tip credit for lack of notice even ''where the employee has actually received and retained base wages and tips that together amply satisfy the minimum wage requirements,'' remarking that ''[i]f the penalty for omitting notice appears harsh, it is also true that notice is not difficult for the employer to provide.'' *Reich* v. *Chez Robert, Inc.*, 28 F.3d 401, 404 (3d Cir. 1994) (citing *Martin* v. *Tango's Restaurant*, 969 F.2d 1319, 1323 (1st Cir. 1992)). Although written notice is frequently provided, it is not required to satisfy the employer's notice burden. *Compare Kilgore* v. *Outback Steakhouse of Florida, Inc.*, 160 F.3d 294, 299 (6th Cir. 1998) (written notice provided to all applicants as matter of course), *with Pellon* v. *Business Representation Int'l, Inc.*, 528 F. Supp. 2d 1306, 1310–11 (S.D. Fla. 2007), *appeal docketed*, No. 08–10133 (11th Cir. Jan. 8, 2008) (Section 3(m)'s requirement was met through verbal notice that plaintiff would be paid $2.13 plus tips, combined with prominent display of FLSA poster explaining tip credit). Additionally, while employees must be ''informed'' of the employer's use of the tip credit, the employer need not ''explain'' the tip credit. *See Kilgore*, 160 F.3d at 298 (''[A]n employer must provide notice to the employees, but need not necessarily 'explain' the tip credit * * * '[I]nform' requires less from an employer than the word 'explain.' ''); *cf. Bonham* v. *Copper Cellar Corp.*, 476 F. Supp. at 101 & n.6 (''vague references to conversations about the minimum wage'' are insufficient to establish section 3(m) notice).

The second provision of the 1974 amendments to section 3(m) made it clear that tipped employees must receive at least the minimum wage and must generally retain any tips received by them as gratuities for services performed. An employer, however, can take advantage of a ''tip credit'' to offset a portion of its minimum wage obligation. Prior to the 1974 amendments, the compensation of tipped employees was often a matter of agreement. Tipped employees could agree, for example, that an employer was only obligated to pay cash wages when an employee's tips were less than the minimum wage, or that the employee's tips would be turned over to the employer, who could then use the tips to pay the minimum wage. *See Usery* v. *Emersons Ltd.*, 1976 WL 1668, *2 (E.D. Va. 1976), *vacated and remanded on other grounds sub. nom. Marshall* v. *Emersons Ltd.*, 593 F.2d 565 (4th Cir. 1979). The 1974 amendments to section 3(m) were intended to prohibit such agreements. *See* S. Rep. No. 93–690, at 43 (1974) (''The latter provision is added to make clear the original Congressional intent that an employer could not use the tips of a 'tipped employee' to satisfy more than 50 percent of the Act's applicable minimum wage.''). The Department's current regulations, which were in effect prior to the 1974 amendments and allowed an employer to require employees to turn over all their tips to the employer, were therefore invalidated by the amendment to the extent that turning tips over to the employer effectively cuts into the minimum wage.

Under the 1974 amendments to section 3(m), an employer's ability to utilize an employee's tips to satisfy any portion of the employer's minimum wage obligation was limited to taking a credit against the employee's tips of up to 50 percent of that obligation. Section 3(m) provides the only method by which an employer may use tips received by an employee to satisfy the employer's minimum wage obligation. An employer's only options under section 3(m) are to take a credit against the employee's tips of up to the statutory differential, or to pay the entire minimum wage directly. *See* Wage and Hour Opinion Letter WH–536, 1989 WL 610348 (October 26, 1989) (defining when an employer does not claim a tip credit as when the employer does not retain any tips and pays the employee the minimum wage).

Thus, in a situation in which an employee earns $10 an hour in tips and the employer pays $2.13 an hour in cash wages and claims the statutory maximum as a tip credit, the employee has received only the minimum wage under section 3(m). (Under section 3(m), the ''wage'' of a tipped employee equals the sum of the cash wage paid by the employer and the amount it claimed as a tip credit.) The amount of tips the employee received in excess of the tip credit are not considered ''wages'' paid by the employer and any deductions from the employee's tips made by the employer would therefore result in a violation of the employer's minimum wage obligation. If, however, the employer paid the employee a direct wage in excess of the minimum wage—and thus did not claim a credit against any portion of the employee's tips—the employer would be able to make deductions so long as they did not reduce the direct wage payment below the minimum wage. *See* Wage and Hour Opinion Letter WH–536, 1989 WL 610348 (October 26, 1989). In such a situation, the deduction would be viewed as coming from the employer's wage payment that exceeds the minimum wage.

The proposed rule updates the regulations to incorporate the 1974 amendments, the legislative history, subsequent court decisions, and the Department's interpretations. Sections 531.52, 531.55(a), 531.55(b), and 531.59 eliminate references to employment agreements providing either that tips are the property of the employer or that employees will turn tips over to their employers, and clarify that the availability of the tip credit provided by section 3(m) requires that all tips

received must be paid out to tipped employees in accordance with the 1974 amendments. Section 531.55(a), which describes compulsory service charges, also is updated by changing the example of such a charge from 10 percent to 15 percent to reflect more current customary industry practices.

The 1974 amendments also clarified that section 3(m)'s statement that employees must retain their tips does not preclude the practice of tip pooling ''among employees who customarily and regularly receive tips.'' 29 U.S.C. 203(m). The Department's regulation on the subject provides that ''the amounts received and retained by each individual [through a tip pooling arrangement] as his own are counted as his tips for purposes of the Act.'' 29 CFR 531.54.

Wage and Hour interpreted the tip pooling clause more fully in opinion letters and in its FOH. The FOH provides, for example, that a tip pooling arrangement cannot require employees to contribute a greater percentage of their tips to the tip pool than is ''customary and reasonable.'' FOH section 30d04(b). The agency expanded upon this position, in its opinion letters and in litigation, that ''customary and reasonable'' equates to 15 percent of an employee's tips or two percent of daily gross sales. *See*, *e.g.*, Wage and Hour Opinion Letter WH–468, 1978 WL 51429 (Sept. 5, 1978). Several courts have rejected the agency's maximum contribution percentages, however, ''because neither the statute nor the regulations mention [the requirement stated in the agency interpretation] and the opinion letters do not explain the statutory source for the limitation that they create.'' *Kilgore* v. *Outback Steakhouse of Fla., Inc.*, 160 F.3d 294, 302–03 (6th Cir. 1998); *see Davis* v. *B&S, Inc.*, 38 F. Supp. 2d 707, 718 n.16 (N.D. Ind. 1998) (citing *Dole* v. *Continental Cuisine, Inc.*, 751 F. Supp. 799, 803 (E.D. Ark. 1990) (''The Court can find no statutory or regulatory authority for the Secretary's opinion [articulated in an opinion letter] that contributions in excess of 15% of tips or 2% of daily gross sales are excessive.'')). Based on these court decisions and the unequivocal statutory language, the proposed rule updates § 531.54 to clarify that section 3(m) of the FLSA does not impose a maximum tip pool contribution percentage. However, the proposed rule states that the employer must inform each employee of the required tip pool contribution, and an employee's participation in a tip pool cannot bring the employee's wages below the minimum wage.

The 1974 amendments also revised another aspect of section 3(m). Prior to the 1974 amendments, section 3(m) of the FLSA provided that an employee could petition the Wage and Hour Administrator to review the tip credit claimed by an employer. *See* Public Law No. 89–601, 80 Stat. 830 (1966) (''[I]n the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased * * * the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount.''). The 1974 amendments eliminated the review clause to clarify that the employer, not the employee, bears the ultimate burden of proving ''the amount of tip credit, if any, [he] is entitled to claim.'' S. Rep. No. 93–690, at 43. Two outdated regulatory provisions promulgated in 1967, however, still purport to permit petitions to the Wage and Hour Administrator for tip credit review despite the fact that the statute no longer provides for this review. *See* 29 CFR 531.7, 531.59.

Consistent with the 1974 amendments, this proposed rule deletes section 531.7, which permits employees to petition the Wage and Hour Administrator for tip credit review. References to the Administrator's review in section 531.59 are also deleted, and the language is updated to reflect the burden on the employer to prove the amount of the tip credit to which it is entitled.

8. Fair Labor Standards Act Amendments of 1977

On November 1, 1977, Congress amended section 3(t) of the FLSA, 29 U.S.C. 203(t). Public Law No. 95–151, § 3(a), 91 Stat. 1245. Section 3(t) of the FLSA defines the phrase ''tipped employee.'' Prior to the 1977 amendment, the definition encompassed ''any employee engaged in an occupation in which he customarily and regularly receives more than $20 a month in tips.'' The 1977 amendment raised the threshold in section 3(t) to $30 a month in tips.

To reflect the 1977 amendment, this proposed rule changes the references in 29 CFR 531.50(b), 531.51, 531.56(a)–(e), 531.57, and 531.58 from $20 to $30.

9. Meal Credit Under Section 3(m)

The proposed rule further amends § 531.30 to incorporate Wage and Hour's longstanding enforcement position regarding the voluntary acceptance of meals. A ''wage'' paid pursuant to section 3(m) of the FLSA may include ''the reasonable cost * * * to the employer of furnishing * * * board, lodging, or other facilities * * * customarily furnished by such employer to his employees.'' 29 U.S.C. 203(m). ''Facilities'' include employer-provided meals. *See* 29 CFR 531.32. The Department's regulation at 29 CFR 531.30, however, provides that an employer's ability to take credit for a facility is limited to those instances where an employee's acceptance was ''voluntary and uncoerced.'' In other words, an employer could not take a wage credit for employees who did not choose to accept the meal.

After a number of courts rejected the agency's position on this point with regard to credit for meals, the agency adopted an enforcement position providing that an employer can take a meal credit even if an employee does not voluntarily accept the meal. *See* FOH section 30c09(b) (''WH no longer enforces the 'voluntary' provision with respect to meals.''); *see also Davis Bros., Inc.* v. *Donovan*, 700 F.2d 1368, 1370 (11th Cir. 1983); *Donovan* v. *Miller Properties, Inc.*, 711 F.2d 49, 50 (5th Cir. 1983).

Thus, under the agency's current enforcement policy articulated in the FOH, an employer may require an employee to accept a meal provided by the employer as a condition of employment, and may take credit for the actual cost of that meal even if the employee's acceptance is not voluntary. The proposed rule amends 29 CFR 531.30 to reflect previous court decisions and the agency's current enforcement posture on meal credits.

10. Section 7(o) Compensatory Time Off

Section 7 of the FLSA requires that a covered employee receive compensation for hours worked in excess of 40 in a workweek at a rate not less than one and one-half times the regular rate of pay at which the employee is employed. 29 U.S.C. 207(a). In 1985, subsequent to the U.S. Supreme Court's decision in *Garcia* v. *San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1985), which held that the FLSA may be constitutionally applied to state and local governments, Congress added section 7(o), 29 U.S.C. 207(o), to the FLSA to permit public agencies to grant employees compensatory time off in lieu of cash overtime compensation pursuant to an agreement with employees or their representatives. The purpose of this exception to the Act's usual requirement of cash overtime pay was ''to provide flexibility to state and local government employers and an

element of choice to their employees regarding compensation for statutory overtime hours.'' H.R. Rep. No. 331, 99th Cong., 1st Sess. 19 (1985).

Section 7(o) provides a detailed scheme for the accrual and use of compensatory time off. Subsection 7(o)(1) authorizes the provision of compensatory time off in lieu of overtime pay. Subsection 7(o)(2) specifies how a public employer creates a compensatory time off plan. Subsection 7(o)(3) establishes limits for the amount of compensatory time off that an employee may accrue. Section 7(o)(4) provides the requirements for cashing out compensatory time upon an employee's termination. Section 7(o)(5) governs a public employee's use of accrued compensatory leave. That section states:

An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency—(A) who has accrued compensatory time off authorized to be provided under paragraph (1), and (B) who has requested the use of such compensatory time, shall be permitted by the employee's employer to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the public agency.

29 U.S.C. 207(o)(5)(A), (B).

In 1987, after notice and comment, the Department issued final regulations implementing section 7(o) (29 CFR 553.20–.28). Section 553.25 of the regulations implements section 7(o)(5)'s requirements regarding the use of compensatory time off. Section 553.25(c) provides:

(1) Whether a request to use compensatory time has been granted within a ''reasonable period'' will be determined by considering the customary work practices within the agency based on the facts and circumstances in each case. Such practices include, but are not limited to (a) the normal schedule of work, (b) anticipated peak workloads based on past experience, (c) emergency requirements for staff and services, and (d) the availability of qualified substitute staff.

(2) The use of compensatory time in lieu of cash payment for overtime must be pursuant to some form of agreement or understanding between the employers and the employee (or the representative of the employee) reached prior to the performance of the work. (See § 553.23). To the extent that the []conditions under which an employee can take compensatory time off are contained in an agreement or understanding as defined in § 553.23, the terms of such agreement or understanding will govern the meaning of ''reasonable period''.

Section 553.25(d) states:

When an employer receives a request for compensatory time off, it shall be honored unless to do so would be ''unduly disruptive'' to the agency's operations. Mere inconvenience to the employer is an insufficient basis for denial of a request for compensatory time off. (See H. Rep. 99–331, p. 23.) For an agency to turn down a request from an employee for compensatory time off requires that it should reasonably and in good faith anticipate that it would impose an unreasonable burden on the agency's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services.

In recent years, a number of courts have examined the proper interpretation of section 7(o)(5)(B)'s ''reasonable period'' requirement with regard to whether an employer must allow an employee to take off the specific days that the employee requests unless that time off would cause an undue disruption.

In *Mortensen* v. *County of Sacramento*, 368 F.3d 1082 (9th Cir. 2004), the court held that under section 7(o)(5)(B), a public agency may deny its employees the right to use accrued compensatory time off on the specific days they request, without establishing that such use of compensatory time would ''unduly disrupt the operations of the public agency.'' The court relied upon the statutory language providing that an employee who has requested the use of compensatory time ''shall be permitted * * * to use such time within a reasonable period after making the request.'' 29 U.S.C. 207(o)(5)(B). The court held that this language unambiguously states that once an employee requests compensatory time off, the employer must allow the employee to use the time within a reasonable period after the request and, thus, it does not require the employer to grant the time off on the specific days requested. In the court's opinion, section 7(o)(5)(B)'s ''unduly disrupt'' clause merely indicates the condition that releases an employer from the obligation to permit the use of compensatory time within a ''reasonable period'' after it is requested. Because the court found no ambiguity in the statute, it declined to defer to the Department's regulation at 29 CFR 553.25(d). *Accord Scott* v. *City of New York*, 340 F. Supp. 2d 371, 380 (S.D.N.Y. 2004).

Similarly, in *Houston Police Officers Union* v. *City of Houston*, 330 F.3d 298 (5th Cir.), *cert. denied*, 540 U.S. 879 (2003), the court held that the plain language of section 207(o)(5)(B) does not require a public agency to grant compensatory time off on the date specifically requested, but instead requires that the agency permit the leave within a reasonable period after the employee requests its use. The court stated that ''mandating a 'reasonable period' for use of comp time is different from mandating the employee's chosen dates. The language offers a span of time to the employer, the beginning of which is the date of the employee's request.'' 330 F.3d at 303. The court noted that if granting the request would unduly disrupt operations, the public agency is released from the previously imposed requirement. Because the court deemed the statutory language unambiguous, it held that deference to the Department's regulation would be inappropriate. Moreover, the court stated that even if the statute were ambiguous, the regulation at section 553.25(d) ''simply does not address whether the statute mandates an employee's specifically requested dates for comp time.'' 330 F.3d at 304. The court (330 F.3d at 304–05) also refused to defer to the Department's *amicus curiae* brief filed in *DeBraska* v. *City of Milwaukee*, 131 F. Supp. 2d 1032 (E.D. Wis. 2000).[1]

In *Aiken* v. *City of Memphis*, 190 F.3d 753 (6th Cir. 1999), *cert. denied*, 528 U.S. 1157 (2000), the court held that the plaintiffs-police officers' collective bargaining agreement with the City of Memphis permitted the City to deny the specific day requested for the use of compensatory time without a showing that such use would unduly disrupt its operations. Under the agreement, the City required police officers requesting compensatory time to sign the precinct's ''comp time'' log book within 30 days of the requested day off. Once the commanding officer determined that additional requests for a particular day would adversely affect the functioning of the unit, no additional requests for the use of compensatory time on that day were allowed.

The plaintiffs-police officers argued that the City's practice of denying officers the use of compensatory time off on a particular day violated section 7(o)(5)(B) because the City denied the leave without satisfying the ''unduly

[1] In contrast to *Houston Police Officers Union*, the district court in *DeBraska* v. *City of Milwaukee*, 131 F. Supp. 2d at 1034, found that the statute was ''somewhat ambiguous.'' The court held that section 7(o)(5)(B) establishes that if an employee gives reasonable notice of a request for compensatory time, the specific days requested must be granted unless the employer demonstrates that the leave would unduly disrupt the employer's services to the public. The court thus agreed with the interpretation of section 7(o)(5) presented in the Department's *amicus curiae* brief, and it concluded that the current regulations support this view, because § 553.25(d) provides that in order to deny a compensatory leave request an agency must believe that granting the leave would ''impose an unreasonable burden on the agency's ability to provide services of acceptable quality and quantity for the public *during the time requested*[.]'' (Emphasis added). The court stated that granting time off on an alternate date would be inconsistent with this phrase.

disrupt'' standard. The court rejected the argument on the ground that it ''completely ignores the phrase 'reasonable period,' which the Act gives the parties the freedom to define.'' 190 F.3d at 756 (citations omitted). The court noted that the regulations provide that to the extent that the parties' agreement specifies ''the conditions under which an employee can take compensatory time off * * * the terms of such agreement or understanding will govern the meaning of 'reasonable period.' '' 190 F.3d at 756–57 (quoting 29 CFR 553.25(c)(2)). The court reasoned that the parties had agreed that ''the reasonable period for requesting the use of banked compensatory time begins thirty days prior to the day in question and ends when the number of officers requesting the use of compensatory time on the given date would bring the precinct's staffing levels to the minimum level necessary for efficient operation.'' 190 F.3d at 757. Therefore, on this basis, the court upheld the district court's determination that the City had not violated section 7(o)(5)(B). *See Beck* v. *City of Cleveland*, 390 F.3d 912 (6th Cir. 2004), *cert. denied*, 125 S. Ct. 2930 (2005) (*Aiken* involved the ''reasonable period'' clause of section 7(o)(5)(B)).

The appellate decisions uniformly read the statutory language unambiguously to state that once an employee requests compensatory time off, the employer has a reasonable period of time to allow the employee to use the time, unless doing so would be unduly disruptive. The Department proposes to revise the current rule to adhere to the appellate court rulings cited above. Proposed § 553.25(c) adds a sentence that states that section 7(o)(5)(B) does not require a public agency to allow the use of compensatory time on the day specifically requested, but only requires that the agency permit the use of the time within a reasonable period after the employee makes the request, unless the use would unduly disrupt the agency's operations. Additionally, the phrase ''within a reasonable period after the request'' has been added to the final sentence of proposed § 553.25(d) and the phrase ''during the time requested'' has been replaced with ''during the time off'' to clarify the employer's obligation.

11. Fluctuating Workweek Method of Computing Overtime Under 29 CFR 778.114

The proposed rule would also clarify the Department's regulation at 29 CFR 778.114 addressing the fluctuating workweek method of computing overtime compensation for salaried nonexempt employees. The current regulation provides that an employer may use the fluctuating workweek method for computing half-time overtime compensation if an employee works fluctuating hours from week to week and receives, pursuant to an understanding with the employer, a fixed salary as straight-time compensation ''(apart from overtime premiums)'' for whatever hours the employee is called upon to work in a workweek, whether few or many. In such cases, an employer satisfies the overtime pay requirement of section 7(a) of the FLSA if it compensates the employee, in addition to the salary amount, at least one-half of the regular rate of pay for the hours worked in excess of 40 hours in each workweek. Because the employee's hours of work fluctuate from week to week, the regular rate must be determined separately each week based on the number of hours actually worked each week. The payment of additional bonus supplements and premium payments to employees compensated under the fluctuating workweek method has presented challenges to both employers and the courts in applying the current regulations.

The proposed regulation provides that bona fide bonus or premium payments do not invalidate the fluctuating workweek method of compensation, but that such payments (as well as ''overtime premiums'') must be included in the calculation of the regular rate unless they are excluded by FLSA sections 7(e)(1)–(8). The proposal also adds an example to § 778.114(b) to illustrate these principles where an employer pays an employee a nightshift differential in addition to a fixed salary.

Paying employees bonus or premium payments for certain activities such as working undesirable hours is a common and beneficial practice for employees. Moreover, the Department's proposed clarification is consistent with the Supreme Court's decision in *Overnight Motor Transportation Co.* v. *Missel*, 316 U.S. 572 (1942), on which the existing regulation is patterned. That case held that, where a nonexempt employee had received only a fixed weekly salary (with no additional overtime premium pay) for working variable irregular hours that regularly exceeded 40 per week and fluctuated from week to week, the employer was required to retroactively pay an additional 50% of the employee's regular rate of pay multiplied by the overtime hours worked to satisfy the FLSA's time and a half overtime pay requirement. *Id.* at 573–74, 580–81. The quotient of the weekly wage divided by the number of hours actually worked each week, including the overtime hours, determined the ''regular rate at which [the] employee [was] employed'' under the fixed salary arrangement. *Id.* at 580. The Department's proposed clarification would eliminate any disincentive for employers to pay additional bona fide bonus or premium payments.

IV. Paperwork Reduction Act

This rule does not impose new information collection requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

V. Executive Order 12866; Small Business Regulatory Enforcement Fairness Act; Regulatory Flexibility

This proposed rule is not economically significant within the meaning of Executive Order 12866, or a ''major rule'' under the Unfunded Mandates Reform Act or Section 801 of the Small Business Regulatory Enforcement Fairness Act.

As discussed previously in this preamble, over the years, Congress has amended the FLSA to refine or to add to exemptions and to clarify the minimum wage and overtime pay requirements. However, in many cases, the Department of Labor has not revised the FLSA regulations to comport with these statutory changes. The Department believes that the existing outdated regulatory provisions may cause confusion within the regulated community resulting in inadvertent violations and the costs of corrective compliance measures to remedy them.

The Department has determined that the proposed changes will not result in any additional compliance costs for regulated entities because the current compliance obligations derive from current law and not the outdated regulatory provisions that have been superseded years ago.

The Department is aware that this interpretation appears to be inconsistent with OMB Circular A–4's guidance on the use of analysis baselines, which states: ''In some cases, substantial portions of a rule may simply restate statutory requirements that would be self-implementing, even in the absence of the regulatory action. In these cases, you should use a pre-statute baseline'' to conduct the preliminary regulatory impact analysis. However, as the discussion below indicates, the Department believes the use of a pre-statute baseline would be extremely difficult for statutes enacted a decade or more in the past. Fundamental changes in the economy and labor market (e.g., the introduction of technology, changes in the size and composition of the labor

force, changes in the economy that impact the demand for labor, etc.) would make it difficult, if not impossible, to separate those changes from changes that resulted from enactment of the statute.

Moreover, the Department believes the economic impacts due to the statutory changes to the FLSA are typically greatest in the short run and diminish over time. This is due to labor markets determining the most efficient way to adjust to the new requirements, and because the Department believes many of the changes mandated by various revisions to the FLSA are reflective of the natural evolution of the labor market and would have become more common even in the absence of regulatory changes.[2] Therefore, the impacts resulting from the promulgation of the proposed regulations are not likely to be measurable. In fact, the Department anticipates that if implemented as a final rule, this proposed rule will simply enhance the Department's enforcement of, and the public's understanding of, compliance obligations under the FLSA by replacing outdated regulations with updated provisions that reflect current law.

The Department requests comments on this assessment.

1996 and 2007 Amendments to the FLSA Minimum Wage

The current FLSA regulations reference the minimum wage in several places. In some places the regulations refer to the 1981 minimum wage of $3.35 while in others they refer to the 1991 minimum wage of $4.25.

In order to avoid the current inconsistencies between the FLSA regulations and the statute the Department is proposing to revise the regulations so that they refer to the statutory minimum wage rather than a specific minimum wage. Since the proposed regulations do not include any reference to a specific minimum wage, the Department believes they do not impose the burden of increasing the minimum wage from the levels specified in the current regulations. That burden was imposed by the statutory changes and is unrelated to the FLSA regulations.

Thus, the Department concludes that the only incremental effect of this proposal on the public from these changes is possibly clearing up some confusion. This differentiates the minimum wage provisions from many other rulemakings in which DOL is given little statutory discretion, but nonetheless is still required to update the CFR.

Small Business Job Protection Act of 1996

Sections 2101 through 2103 of Title II of SBJPA, entitled the ''Employee Commuting Flexibility Act of 1996,'' amended section 4(a) of the Portal Act, 29 U.S.C. 254(a) to state that for travel time involving the employee's use of employer-provided vehicles for commuting at the beginning and end of the workday to be considered noncompensable, the use of the vehicle must be ''conducted under an agreement between the employer and the employee or the employee's representative.'' The Department believes that since 1996 the labor market has adjusted to this statutory change and that it would be very difficult, if not impossible, to estimate the impact of this amendment. It is likely that as part of their overall compensation package, some employers and their employees have agreed to make the travel time compensable while others have agreed to make it noncompensable. In addition, since this provision simply clarifies that compensability should be subject to an agreement, but does not otherwise restrict the type of agreement employers and employees may reach, the Department believes this provision by its nature does not impose a significant burden on the public. Therefore, the Department concludes that the proposed regulatory changes will have no measurable effect on the public except to possibly clear up some confusion.

In addition, section 2105 of the SBJPA amended the FLSA effective August 20, 1996, by adding section 6(g), 29 U.S.C. 206(g), which provides that ''[a]ny employer may pay any employee [who has not attained the age of 20] of such employer, during the first 90 consecutive calendar days after such employee is initially employed by such employer, a wage which is not less than $4.25 an hour.'' The Department believes that the labor market has also adjusted to this change during the period since the enactment of the SBJPA. Although youths would obviously want to receive the normal minimum wage rather than the youth wage, some youths will decide to accept the lower youth wage in order to gain experience in the labor market. Similarly, although some employers may like to pay the lower youth wage, some may find compliance with the added requirements associated with the youth wage not to be worth the savings in wages. Thus, the Department concludes that the proposed regulatory changes will have no measurable effect on the public except to possibly clear up some confusion.

Agricultural Workers on Water Storage/Irrigation Projects

Public Law No. 105–78, 111 Stat. 1467 (Nov. 13, 1997), amended section 13(b)(12) of the FLSA, 29 U.S.C. 213(b)(12), by extending the exemption from overtime pay requirements applicable to workers on water storage and irrigation projects where at least 90 percent of the water is used for agricultural purposes, rather than where the water is used exclusively for agricultural purposes. The Department believes that the labor market has also adjusted to this change during the period since the enactment of the amendment. Although agricultural workers and workers employed on water storage/irrigation projects listed in the exemption are not required to be paid time and one-half for the hours worked in excess of 40 in a work week, their overall compensation will be determined by market forces. In some cases, employers and their employees will choose some form of premium overtime pay (even though it is not mandated by the FLSA) while others may choose a higher salary with no additional compensation for the hours worked in excess of 40 in a week. In addition, this provision applies to a relatively small part of the overall U.S. labor force, thus the Department believes any possible impacts due to this exemption would likely not be substantial. Thus, the Department concludes that the proposed regulatory changes will have no measurable effect on the public except to possibly clear up some confusion.

Certain Volunteers at Private Non-Profit Food Banks

Section 1 of the Amy Somers Volunteers at Food Banks Act, Public Law No. 105–221, 112 Stat. 1248 (Aug. 7, 1998), amended section 3(e) of the FLSA, 29 U.S.C. 203(e), by adding section (5) to provide that the term ''employee'' does not include individuals volunteering solely for humanitarian purposes at private non-profit food banks and who receive groceries from those food banks. 29 U.S.C. 203(e)(5). The Department believes that the labor market has also adjusted to this change during the period since the enactment of the amendment. The Department also believes this regulatory change is not likely to have caused an impact we would consider significant, since it applies to a small part of the public and

[2] For example, as nominal wages rise over time, the marginal impact of a fixed minimum wage provision decreases, since it is less binding on the market.

simply clarifies that certain individuals may be considered volunteers.

Employees Engaged in Fire Protection Activities

In 1999, Congress amended section 3 of the FLSA, 29 U.S.C. 203, by adding section (y) to define ''an employee in fire protection activities.'' This change in definition impacts the employees who may be covered by the partial overtime exemption allowed by § 7(k) (29 U.S.C. 207(k)) or the overtime exemption for public agencies with fewer than five employees in fire protection activities pursuant to § 13(b)(20) (29 U.S.C. 213(b)(20)).

The Department believes that these provisions apply to a relatively small proportion of the labor market, and that the market has adjusted to this change during the period since the enactment of the amendment. Although employees engaged in fire protection activities are not required to be paid time and one-half for the hours worked in excess of 40 in a work week, but rather must be paid overtime pursuant to section 7(k) of the FLSA, 29 U.S.C. 207(k), their overall compensation will be determined by market forces. In some cases, employers and their employees will choose some form of premium overtime pay (even where it is not mandated by the FLSA) while others may choose a higher salary with no additional compensation for the excess hours.

Similarly, the Department believes that the market has adjusted to no exemptions for the ambulance and rescue service employees of non-fire department public agencies (§ 553.215(b)), the rescue service employees of hospitals and nursing homes, and the ambulance and rescue service employees of private organizations because the statute clearly requires employment by a fire department for the exemption. While there may have been some short run effects related to the statutory change, in the years since the enactment of the statute, employers and their employees have adjusted to the overtime requirement.

Thus, the Department concludes that the proposed regulatory changes will have no measurable effect on the public except to possibly clear up some confusion.

Stock Options Excluded From the Computation of the Regular Rate

The Worker Economic Opportunity Act enacted by Congress on May 18, 2000, amended §§ 7(e) and 7(h) of the FLSA. 29 U.S.C. 207(e), (h). In § 7(e), a new subsection (8) adds ''[a]ny value or income derived from employer-provided grants or rights provided pursuant to a stock option, stock appreciation right, or bona fide employee stock purchase program'' meeting particular criteria to the types of remuneration that are excluded from the computation of the regular rate. In § 7(h), the amendment clarifies that the amounts excluded under § 7(e) may not be counted toward the employer's minimum wage requirement under section 6, and that extra compensation excluded pursuant to the new subsection (8) may not be counted toward overtime pay under § 7. The Department believes that the labor markets have adjusted to this statute, which provides additional alternatives for employee compensation, but does not otherwise limit or mandate the overall levels of compensation owed to any category of worker. The proposed regulatory changes merely help to correct any confusion in this area.

Fair Labor Standards Act Amendments of 1974 and 1977

On April 7, 1974, Congress enacted an amendment to section 13(b)(10)(B) of the FLSA, 29 U.S.C. 213(b)(10)(B). Public Law No. 93–259, 88 Stat. 55 (1974). This amendment added an overtime exemption for salespersons primarily engaged in selling boats (in addition to the pre-existing exemption for sellers of trailers or aircraft). This amendment also eliminated the overtime exemption for partsmen and mechanics servicing trailers or aircraft.

The Department believes that these provisions apply to a relatively small proportion of the labor market, and that the labor market has also adjusted to this change during the long period since the enactment of the amendment. Although salespersons primarily engaged in selling boats are not required to be paid time and one-half for the hours worked in excess of 40 in a work week, their overall compensation will be determined by market forces. In some cases, employers and their employees may choose some form of premium overtime pay (even though it is not mandated by the FLSA) while others may choose a higher salary and commissions with no additional compensation for the hours worked in excess of 40 in a week.

Similarly, the Department believes that the market has adjusted to no exemptions for partsmen and mechanics servicing trailers or aircraft. Although there may have been some short run effects related to the statutory change, in the years since enactment of the statute, employers and their employees have adjusted to the overtime requirement. Thus, the Department concludes that the proposed regulatory changes will have no measurable effect on the public except to possibly clear up some confusion.

On November 1, 1977, Congress amended section 3(t) of the FLSA, 29 U.S.C. 203(t). Public Law No. 95–151, § 3(a), 91 Stat. 1245. Section 3(t) of the FLSA defines the phrase ''tipped employee.'' The amendment changed the conditions for taking the tip credit when making wage payments to qualifying tipped employees under the FLSA. Prior to the 1977 amendment, the definition encompassed ''any employee engaged in an occupation in which he customarily and regularly receives more than $20 a month in tips.'' The 1977 amendment raised the threshold in section 3(t) to $30 a month in tips.

Although the mandatory paid wage ($2.13) for tipped employees is below the minimum wage, these workers must still receive hourly compensation (cash wages plus tips) at least equal to the minimum wage. Moreover, regardless of the minimum wage, if the hourly compensation is too low employers will have trouble finding a sufficient number of workers. The Department believes that the labor market has also adjusted to this change during the period since the enactment of the amendment and that the regulatory changes will have no measurable economic effect on the public except to possibly clear up some confusion.

Meal Credit Under Section 3(m)

The proposed rule further amends § 531.30 to incorporate Wage and Hour's longstanding enforcement position regarding the voluntary acceptance of meals. The Department's current regulation at 29 CFR 531.30 provides that an employer's ability to take credit for a facility is limited to those instances where an employee's acceptance is ''voluntary.'' However, after a number of courts rejected the Department's position on this point with regard to the credit for meals, the Wage and Hour Division adopted an enforcement position in the 1980's providing that an employer can take a meal credit even if an employee does not voluntarily accept the meal. Thus, under the Wage and Hour Division's current enforcement policy articulated in the Field Operations Handbook (Section 30c09(b)), an employer may require an employee to accept a meal provided by the employer as a condition of employment, and may take credit for the actual cost of that meal even if the employee's acceptance is not voluntary.

Since these changes in case law and the Department's enforcement policy

have been in place since the 1980's, the Department believes that the labor market has adjusted to this change. Workers who do not want a portion of their compensation to take the form of meals will seek other employment while other workers might seek employers who provide meals. Since the overall compensation will be the result of market forces and the market has had decades to adjust to the case law, the proposed regulatory changes will have no measurable economic effect on the public.

Section 7(o) Compensatory Time Off

In 1987, the Department issued final regulations implementing a detailed scheme for the accrual and use of compensatory time off (section 7(o)). Section 7(o)(5) governs a public employee's use of accrued compensatory leave. That section states:

> An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency—(A) who has accrued compensatory time off authorized to be provided under paragraph (1), and (B) who has requested the use of such compensatory time, shall be permitted by the employee's employer to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the public agency.

29 U.S.C. 207(o)(5). In recent years, a number of courts have examined the proper interpretation of section 7(o)(5)(B)'s ''reasonable period'' requirement with regard to whether an employer must allow an employee to take off the specific days that the employee requests unless that time off would cause an undue disruption. The appellate courts that have addressed this issue have uniformly read the statutory language unambiguously to state that once an employee requests compensatory time off, the employer has a reasonable period of time to allow the employee to use the time, unless doing so would be unduly disruptive. As one court noted, ''mandating a 'reasonable period' for use of comp time is different from mandating the employee's chosen dates.'' *Houston Police Officers Union* v. *City of Houston*, 330 F.3d 298, 303 (5th Cir. 2003).

Proposed § 553.25(c) adds a sentence that states that section 7(o)(5)(B) does not require a public agency to allow the use of compensatory time on the day specifically requested, but only requires that the agency permit the use of the time within a reasonable period after the employee makes the request, unless the use would unduly disrupt the agency's operations. Additionally, the phrase ''within a reasonable period after the request'' has been added to the final sentence of proposed § 553.25(d) and the phrase ''during the time requested'' has been replaced with ''during the time off'' to clarify the employer's obligation.

The Department believes that the proposed changes will eliminate some of the confusion over the use of compensatory time off. Under current conditions, some public agency employees may accrue compensatory time off under the mistaken belief that they can specify an exact date when they will use their accrued compensatory time off. The proposed clarification makes it clear that public sector employers may permit employees to use accrued compensatory time off within a ''reasonable period'' after the employee's request is made.

Even though we believe this clarification is consistent with the court's interpretation of current statutory and regulatory requirements, and therefore does not change the nature of compensatory time off rights and responsibilities, the Department recognizes as a result of this regulatory clarification that some employees may choose not to accrue compensatory time off. Although the Department typically considers existing final regulations as part of the baseline for regulatory impact analysis, and therefore feels incorporating these court clarifications into the baseline may be consistent with OMB Circular A–4 guidance, we would like to recognize that this clarification may have some slight impacts. For example, if the supply of workers willing to accrue compensatory time off declines, then some public sector employers may choose to negotiate with their employees to develop an agreement or understanding that provides more flexibility as to the use of compensatory time off than the minimum mandated by section 7(o). In fact, it is probable that some negotiations between public sector employers and their employees has already occurred as a result of the court decisions.

Fluctuating Workweek Method of Computing Overtime Under 29 CFR 778.114

The proposed rule would also clarify the Department's regulation at 29 CFR 778.114 addressing the fluctuating workweek method of computing overtime compensation for salaried employees. The proposed regulation provides that bona fide bonus or premium payments do not invalidate the fluctuating workweek method of compensation, but that such payments (as well as ''overtime premiums'') must be included in the calculation of the regular rate unless they are excluded by FLSA sections 7(e)(1)–(8). Paying employees bonus or premium payments for certain activities such as working undesirable hours is a common and beneficial practice for both employers and their employees. The Department's proposed clarification would eliminate any disincentive for employers to pay additional bona fide bonus or premium payments. The Department has determined that the proposed regulatory clarification will have no measurable economic effect on the public except to possibly reduce some litigation.

Conclusion

The Department concludes that incorporating these statutory amendments and court interpretations into the FLSA and Portal Act regulations will not impose any measurable costs on any private or public sector entity.

Furthermore, because the proposed rule will not impose any measurable costs on employers, the Department certifies that it would not have a significant economic impact on a substantial number of small entities. Accordingly, the Department need not prepare an initial regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

VI. Unfunded Mandates Reform Act

This proposed rule has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA). 2 U.S.C. 1501 *et seq.* For the purposes of the UMRA, the Department certifies that this rule does not impose any Federal mandate that may result in increased expenditures by State, local, or tribal governments, or increased expenditures by the private sector, of more than $100 million in any year.

VII. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, Aug. 10, 1999). This rule does not have federalism implications as outlined in E.O. 13132. The rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

VIII. Executive Order 13175, Indian Tribal Governments

The Department has reviewed this rule under the terms of Executive Order 13175 and determined it did not have

''tribal implications.'' The rule does not have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' As a result, no tribal summary impact statement has been prepared.

IX. Effects on Families

The Department certifies that this rule will not adversely affect the well-being of families, as discussed under section 654 of the Treasury and General Government Appropriations Act, 1999.

X. Executive Order 13045, Protection of Children

The Department has reviewed this rule under the terms of Executive Order 13045 and determined this action is not subject to E.O. 13045 because it is not economically significant as defined in E.O. 12866 and it does not impact the environmental health or safety risks of children.

XI. Environmental Impact Assessment

The Department has reviewed this rule in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council of Environmental Quality, 40 CFR 1500 *et seq.*, and the Departmental NEPA procedures, 29 CFR part 11, and determined that this rule will not have a significant impact on the quality of the human environment. There is, thus, no corresponding environmental assessment or an environmental impact statement.

XII. Executive Order 13211, Energy Supply

The Department has determined that this rule is not subject to Executive Order 13211. It will not have a significant adverse effect on the supply, distribution or use of energy.

XIII. Executive Order 12630, Constitutionally Protected Property Rights

The Department has determined that this rule is not subject to Executive Order 12630 because it does not involve implementation of a policy ''that has taking implications'' or that could impose limitations on private property use.

XIV. Executive Order 12988, Civil Justice Reform Analysis

The Department drafted and reviewed this proposed rule in accordance with Executive Order 12988 and determined that the rule will not unduly burden the federal court system. The rule was: (1) Reviewed to eliminate drafting errors and ambiguities; (2) written to minimize litigation; and (3) written to provide a clear legal standard for affected conduct and to promote burden reduction.

List of Subjects

29 CFR Part 4

Administrative practice and procedures, Employee benefit plans, Government contracts, Labor, Law enforcement, Minimum wages, Penalties, Wages.

29 CFR Part 531

Employment, Labor, Minimum wages, Wages.

29 CFR Part 553

Firefighters, Labor, Law enforcement officers, Overtime pay, Wages.

29 CFR Part 778

Employment, Overtime pay, Wages.

29 CFR Part 779

Compensation, Overtime pay.

29 CFR Part 780

Agriculture, Irrigation, Overtime pay.

29 CFR Part 785

Compensation, Hours of work.

29 CFR Part 786

Compensation, Minimum wages, Overtime pay.

29 CFR Part 790

Compensation, Hours of work.

Victoria A. Lipnic,

Assistant Secretary, Employment Standards Administration.

Alexander J. Passantino,

Acting Administrator, Wage and Hour Division.

For the reasons set forth above, the Department proposes to amend Title 29, parts 4, 531, 553, 778, 779, 780, 785, 786, and 790 of the Code of Federal Regulations as follows:

PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

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

Authority: 41 U.S.C. 351 *et seq.*; 41 U.S.C. 38 and 39; 5 U.S.C. 301.

§ 4.159 General minimum wage [Revised]

2. Amend § 4.159 by deleting the final sentence.

3. Amend § 4.167 by revising the twelfth sentence to the end, to read as follows:

§ 4.167 Wage payments—medium of payment.

* * * The general rule under that Act provides, when determining the wage an employer is required to pay a tipped employee, the maximum allowable hourly tip credit is limited to the difference between $2.13 and the applicable minimum wage specified in section 6(a)(1) of that Act. (See § 4.163(k) for exceptions in section 4(c) situations.) In no event shall the sum credited as tips exceed the value of tips actually received by the employee. The tip credit is not available to an employer unless the employer has informed the employee of the tip credit provisions and all tips received by the employee have been retained by the employee (other than as part of a valid tip pooling arrangement among employees who customarily and regularly receive tips; see section 3(m) of the Fair Labor Standards Act).

PART 531—WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

4. The authority citation for part 531 is revised to read as follows:

Authority: Sec. 3(m), 52 Stat. 1060; sec. 2, 75 Stat. 65; sec. 101, 80 Stat. 830; sec. 29(B), 88 Stat. 55, Pub. L. 93–259; 29 U.S.C. 203(m) and (t).

§ 531.7 [Removed and Reserved]

5. Remove and reserve § 531.7.

6. Amend § 531.30 by revising the second sentence to read as follows:

§ 531.30 ''Furnished'' to the employee.

* * * Not only must the employee receive the benefits of the facility for which the employee is charged, but, with the exception of meals, the employee's acceptance of the facility must be voluntary and uncoerced. * * *

7. Amend § 531.36 by revising paragraph (a) to read as follows:

§ 531.36 Nonovertime workweeks.

(a) When no overtime is worked by the employees, section 3(m) and this part apply only to the applicable minimum wage for all hours worked. To illustrate, where an employee works 40 hours a week at a cash wage rate of at least the applicable minimum wage and is paid that amount free and clear at the end of the workweek, and in addition is furnished facilities, no consideration need be given to the question of whether such facilities meet the requirements of section 3(m) and this part, since the employee has received in cash the applicable minimum wage for all hours worked. Similarly, where an employee is employed at a rate in excess of the

applicable minimum wage and during a particular workweek works 40 hours for which the employee receives at least the minimum wage free and clear, the employer having deducted from wages for facilities furnished, whether such deduction meets the requirement of section 3(m) and subpart B of this part need not be considered, since the employee is still receiving, after the deduction has been made, a cash wage of at least the minimum wage for each hour worked. Deductions for board, lodging, or other facilities may be made in nonovertime workweeks even if they reduce the cash wage below the minimum wage, provided the prices charged do not exceed the ''reasonable cost'' of such facilities. When such items are furnished the employee at a profit, the deductions from wages in weeks in which no overtime is worked are considered to be illegal only to the extent that the profit reduces the wage (which includes the ''reasonable cost'' of the facilities) below the required minimum wage. Facilities must be measured by the requirements of section 3(m) and this part to determine if the employee has received the applicable minimum wage in cash or in facilities which may be legitimately included in ''wages'' payable under the Act.

* * * * *

8. Revise § 531.37 to read as follows:

§ 531.37 Overtime workweeks.

(a) Section 7 requires that the employee receive compensation for overtime hours at ''a rate of not less than one and one-half times the regular rate at which he is employed.'' When overtime is worked by an employee who receives the whole or part of his or her wage in facilities and it becomes necessary to determine the portion of wages represented by facilities, all such facilities must be measured by the requirements of section 3(m) and subpart B of this part. It is the Administrator's opinion that deductions may be made, however, on the same basis in an overtime workweek as in nonovertime workweeks (see § 531.36), if their purpose and effect are not to evade the overtime requirements of the Act or other law, providing the amount deducted does not exceed the amount which could be deducted if the employee had only worked the maximum number of straight-time hours during the workweek. Deductions in excess of this amount for such articles as tools or other articles which are not ''facilities'' within the meaning of the Act are illegal in overtime workweeks as well as in nonovertime workweeks. There is no limit on the amount which may be deducted for ''board, lodging, or other facilities'' in overtime workweeks (as in workweeks when no overtime is worked), provided that these deductions are made only for the ''reasonable cost'' of the items furnished. These principles assume a situation where bona fide deductions are made for particular items in accordance with the agreement or understanding of the parties. If the situation is solely one of refusal or failure to pay the full amount of wages required by section 7, these principles have no application. Deductions made only in overtime workweeks, or increases in the prices charged for articles or services during overtime workweeks will be scrutinized to determine whether they are manipulations to evade the overtime requirements of the Act.

(b) Where deductions are made from the stipulated wage of an employee, the regular rate of pay is arrived at on the basis of the stipulated wage before any deductions have been made. Where board, lodging, or other facilities are customarily furnished as addition to a cash wage, the reasonable cost of the facilities to the employer must be considered as part of the employee's regular rate of pay. *See Walling* v. *Alaska Pacific Consolidated Mining Co.*, 152 F.2d 812 (9th Cir. 1945), *cert. denied*, 327 U.S. 803.

9. Remove the undesignated center heading above § 531.50.

10. Designate §§ 531.50 through 531.60 as subpart D, and add a heading for subpart D to read as follows:

Subpart D—Tipped Employees

11. Revise § 531.50 to read as follows:

§ 531.50 Statutory provisions with respect to tipped employees.

(a) With respect to tipped employees, section 3(m) provides that, in determining the wage an employer is required to pay a tipped employee, the amount paid such employee by the employee's employer shall be an amount equal to—

(1) The cash wage paid such employee which for purposes of such determination shall be not less than the cash wage required to be paid such an employee on August 20, 1996 [i.e., $2.13]; and

(2) An additional amount on account of the tips received by such employee which amount is equal to the difference between the wage specified in paragraph (a)(1) of this section and the wage in effect under section 206(a)(1) of this title.

(b) ''Tipped employee'' is defined in section 3(t) of the Act as follows: *Tipped employee* means any employee engaged in an occupation in which he customarily and regularly receives more than $30 a month in tips.

12. Amend §§ 531.51, 531.56, 531.57, 531.58 to remove and add terms as follows:

§§ 531.51, 531.56, 531.57, 531.58 [Amended]

In 29 CFR part 531, ''Wage Payments Under the Fair Labor Standards Act of 1938,'' remove the words ''$20'' and add, in their place, ''$30'' wherever they appear in the following places:

a. Section 531.51;

b. Section 531.56 heading and paragraphs (a) through (e);

c. Section 531.57; and

d. Section 531.58.

13. Amend § 531.52 by revising the third, fourth and fifth sentences, to read as follows:

§ 531.52 General characteristics of ''tips.''

* * * Whether a tip is to be given, and its amount, are matters determined solely by the customer, who has the right to determine who shall be the recipient of the gratuity. Where an employee is being paid wages no more than the minimum wage, the employer is prohibited from using an employee's tips for any reason other than to make up the difference between the required cash wage paid and the minimum wage or in furtherance of a valid tip pool. Only tips actually received by an employee as money belonging to the employee may be counted in determining whether the person is a ''tipped employee'' within the meaning of the Act and in applying the provisions of section 3(m) which govern wage credits for tips.

14. Amend § 531.54 by adding two sentences to the end of the paragraph to read as follows:

§ 531.54 Tip pooling.

* * * Section 3(m) does not impose a maximum contribution percentage on tip pools. An employer must notify its employees of any required tip pool contribution amount.

15. Revise § 531.55 to read as follows:

§ 531.55 Examples of amounts not received as tips.

(a) A compulsory charge for service, such as 15 percent of the amount of the bill, imposed on a customer by an employer's establishment, is not a tip and, even if distributed by the employer to its employees, cannot be counted as a tip received in applying the provisions of section 3(m) and 3(t). Similarly, where negotiations between a hotel and a customer for banquet facilities include amounts for distribution to employees of the hotel, the amounts so distributed are not counted as tips received.

(b) As stated above, service charges and other similar sums which become part of the employer's gross receipts are not tips for the purposes of the Act. Where such sums are distributed by the employer to its employees, however, they may be used in their entirety to satisfy the monetary requirements of the Act.

16. Amend § 531.56 by revising the last sentence in paragraph (d) to read as follows:

§ 531.56 ''More than $30 per month in tips.''

* * * * *

(d) *Significance of minimum monthly tip receipts.* * * * It does not govern or limit the determination of the appropriate amount of wage credit under section 3(m) that may be taken for tips under section 6(a)(1) (tip credit equals the difference between the minimum wage required by section 6(a)(1) and $2.13 per hour).

* * * * *

17. Revise § 531.59 to read as follows:

§ 531.59 The tip wage credit.

(a) In determining compliance with the wage payment requirements of the Act, under the provisions of section 3(m) the amount paid to a tipped employee by an employer is increased on account of tips by an amount equal to the formula set forth in the statute (minimum wage required by section 6(a)(1) of the Act minus $2.13), provided that the employer satisfies all the requirements of section 3(m). This tip credit is in addition to any credit for board, lodging, or other facilities which may be allowable under section 3(m).

(b) As indicated in § 531.51, the tip credit may be taken only for hours worked by the employee in an occupation in which the employee qualifies as a ''tipped employee.'' Pursuant to section 3(m), an employer is not eligible to take the tip credit unless it has informed its employees that it intends to avail itself of the tip wage credit. Such notice shall be provided in advance of the employer's use of the tip credit; the notice need not be in writing, but must communicate to employees that the employer intends to treat tips as satisfying part of the employer's minimum wage obligation. The credit allowed on account of tips may be less than that permitted by statute (minimum wage required by section 6(a)(1) minus $2.13); it cannot be more. In order for the employer to claim the maximum tip credit, the employer must demonstrate that the employee received at least that amount in actual tips. If the employee received less than the maximum tip credit amount in tips, the employer is required to pay the balance so that the employee receives at least the minimum wage with the defined combination of wages and tips. With the exception of tips contributed to a bona fide tip pool as described in § 531.31, the tip credit provisions of section 3(m) also require employers to permit employees to retain all tips received by the employee.

18. Amend § 531.60 by removing the paragraph designation ''(a)'' and revising the first and third sentences to read as follows:

§ 531.60 Overtime payments.

When overtime is worked by a tipped employee who is subject to the overtime pay provisions of the Act, the employee's regular rate of pay is determined by dividing the employee's total remuneration for employment (except statutory exclusions) in any workweek by the total number of hours actually worked by the employee in that workweek for which such compensation was paid. * * * In accordance with section 3(m), a tipped employee's regular rate of pay includes the amount of tip credit taken by the employer per hour (not in excess of the minimum wage required by section 6(a)(1) minus $2.13), the reasonable cost or fair value of any facilities furnished to the employee by the employer, as authorized under section 3(m) and this part 531, and the cash wages including commissions and certain bonuses paid by the employer. * * *

* * * * *

PART 553—APPLICATION OF THE FAIR LABOR STANDARDS ACT TO EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

19–20. The authority citation for part 553 continues to read as follows:

Authority: Secs. 1–19 52 Stat. 1060, as amended (29 U.S.C. 201–219); Pub. L. 99–150, 99 Stat. 787 (29 U.S.C. 203, 207, 211).

21. Amend § 553.25 by adding a sentence at the end of paragraph (c)(1) and by revising the last sentence of paragraph (d) to read as follows:

§ 553.25 Conditions for use of compensatory time (''reasonable period'', ''unduly disrupt'').

* * * * *

(c) * * *

(1) * * * Section 7(o)(5) does not require a public agency to allow an employee to use compensatory time on the specific day requested, but rather only requires the agency to permit an employee to use the time within a reasonable period after the employee makes the request, unless such use would unduly disrupt the agency's operations.

* * * * *

(d) * * * For an agency to turn down a request from an employee for compensatory time off within a reasonable period after the request requires that it should reasonably and in good faith anticipate that it would impose an unreasonable burden on the agency's ability to provide services of acceptable quality and quantity for the public during the time off without the use of the employee's services.

22. Revise § 553.210(a) to read as follows:

§ 553.210 Fire protection activities.

(a) As used in sections 7(k) and 13(b)(20) of the Act, the term ''any employee * * * in fire protection activities'' refers to ''an employee, including a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous materials worker, who is trained in fire suppression, has the legal authority and responsibility to engage in fire suppression, and is employed by a fire department of a municipality, county, fire district, or State; and is engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.'' The term includes such incidental nonfirefighting functions as housekeeping, equipment maintenance, lecturing, attending community fire drills and inspecting homes and schools for fire hazards. The term would include all such employees, regardless of their status as ''trainee,'' ''probationary,'' or ''permanent,'' or of their particular specialty or job title (*e.g.*, firefighter, engineer, hose or ladder operator, fire specialist, fire inspector, lieutenant, captain, inspector, fire marshal, battalion chief, deputy chief, or chief), and regardless of their assignment to support activities of the type described in paragraph (c) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity.

* * * * *

§§ 553.212 and 553.215 [Reserved]

23. Remove and reserve §§ 553.212 and 553.215.

§§ 553.221, 553.222, 553.223, 553.226, and 553.231 [Amended]

24. Amend §§ 553.221, 553.222, 553.223, 553.226 and 553.231 to remove and add terms as follows. Remove the words ''firefighter'' or ''firefighters'' and add, in their place, the words ''employee in fire protection activities''

or ''employees in fire protection activities,'' respectively, wherever they appear in the following places:

a. Section 553.221(a), (d), and (g);
b. Section 553.222(a) and (c);
c. Section 553.223(a), (c), and (d);
d. Section 553.226(c); and
e. Section 553.231(b).

PART 778—OVERTIME COMPENSATION

25. The authority citation for part 778 continues to read as follows:

Authority: 52 Stat. 1060, as amended; 29 U.S.C. 201 *et seq.*

26. Revise § 778.110 to read as follows:

§ 778.110 Hourly rate employee.

(a) *Earnings at hourly rate exclusively.* If the employee is employed solely on the basis of a single hourly rate, the hourly rate is the ''regular rate.'' For overtime hours of work the employee must be paid, in addition to the straight time hourly earnings, a sum determined by multiplying one-half the hourly rate by the number of hours worked in excess of 40 in the week. Thus a $12 hourly rate will bring, for an employee who works 46 hours, a total weekly wage of $588 (46 hours at $12 plus 6 at $6). In other words, the employee is entitled to be paid an amount equal to $12 an hour for 40 hours and $18 an hour for the 6 hours of overtime, or a total of $588.

(b) *Hourly rate and bonus.* If the employee receives, in addition to the earnings computed at the $12 hourly rate, a production bonus of $46 for the week, the regular hourly rate of pay is $13 an hour (46 hours at $12 yields $552; the addition of the $46 bonus makes a total of $598; this total divided by 46 hours yields a regular rate of $13). The employee is then entitled to be paid a total wage of $637 for 46 hours (46 hours at $13 plus 6 hours at $6.50, or 40 hours at $13 plus 6 hours at $19.50).

27. Revise § 778.111 to read as follows:

§ 778.111 Pieceworker.

(a) *Piece rates and supplements generally.* When an employee is employed on a piece-rate basis, the regular hourly rate of pay is computed by adding together total earnings for the workweek from piece rates and all other sources (such as production bonuses) and any sums paid for waiting time or other hours worked (except statutory exclusions). This sum is then divided by the number of hours worked in the week for which such compensation was paid, to yield the pieceworker's ''regular rate'' for that week. For overtime work the pieceworker is entitled to be paid, in addition to the total weekly earnings at this regular rate for all hours worked, a sum equivalent to one-half this regular rate of pay multiplied by the number of hours worked in excess of 40 in the week. (For an alternative method of complying with the overtime requirements of the Act as far as pieceworkers are concerned, see § 778.418.) Only additional half-time pay is required in such cases where the employee has already received straight-time compensation at piece rates or by supplementary payments for all hours worked. Thus, for example, if the employee has worked 50 hours and has earned $491 at piece rates for 46 hours of productive work and in addition has been compensated at $8.00 an hour for 4 hours of waiting time, the total compensation, $523.00, must be divided by the total hours of work, 50, to arrive at the regular hourly rate of pay—$10.46. For the 10 hours of overtime the employee is entitled to additional compensation of $52.30 (10 hours at $5.23). For the week's work the employee is thus entitled to a total of $575.30 (which is equivalent to 40 hours at $10.46 plus 10 overtime hours at $15.69).

(b) *Piece rates with minimum hourly guarantee.* In some cases an employee is hired on a piece-rate basis coupled with a minimum hourly guaranty. Where the total piece-rate earnings for the workweek fall short of the amount that would be earned for the total hours of work at the guaranteed rate, the employee is paid the difference. In such weeks the employee is in fact paid at an hourly rate and the minimum hourly guaranty is the regular rate in that week. In the example just given, if the employee was guaranteed $11 an hour for productive working time, the employee would be paid $506 (46 hours at $11) for the 46 hours of productive work (instead of the $491 earned at piece rates). In a week in which no waiting time was involved, the employee would be owed an additional $5.50 (half time) for each of the 6 overtime hours worked, to bring the total compensation up to $539 (46 hours at $11 plus 6 hours at $5.50 or 40 hours at $11 plus 6 hours at $16.50). If the employee is paid at a different rate for waiting time, the regular rate is the weighted average of the 2 hourly rates, as discussed in § 778.115.

28. Amend § 778.113 by revising paragraph (a) and the fifth sentence of paragraph (b) to read as follows:

§ 778.113 Salaried employees—general.

(a) *Weekly salary.* If the employee is employed solely on a weekly salary basis, the regular hourly rate of pay, on which time and a half must be paid, is computed by dividing the salary by the number of hours which the salary is intended to compensate. If an employee is hired at a salary of $350 and if it is understood that this salary is compensation for a regular workweek of 35 hours, the employee's regular rate of pay is $350 divided by 35 hours, or $10 an hour, and when the employee works overtime the employee is entitled to receive $10 for each of the first 40 hours and $15 (one and one-half times $10) for each hour thereafter. If an employee is hired at a salary of $375 for a 40-hour week the regular rate is $9.38 an hour.

(b) * * * The regular rate of an employee who is paid a regular monthly salary of $1,560, or a regular semimonthly salary of $780 for 40 hours a week, is thus found to be $9 per hour. * * *

29. Revise § 778.114 to read as follows:

§ 778.114 Fixed salary for fluctuating hours.

(a) An employee employed on a salary basis may have hours of work that fluctuate from week to week and be paid the salary amount pursuant to an understanding with the employer that the employee will receive such fixed amount as straight time pay for whatever hours the employee is called upon to work in a workweek, whether few or many. Where there is a clear mutual understanding of the parties that the fixed salary is compensation for the total hours worked each workweek, whatever their number, rather than for working 40 hours or some other fixed weekly work period, such a salary arrangement is permitted by the Act if the amount of the salary and any bonus or premium payments not excluded from the regular rate under section 7(e)(1) through (8) of the Act is sufficient to provide compensation to the employee at a rate not less than the applicable minimum wage rate for every hour worked in those workweeks in which the number of hours the employee works is greatest, and if the employee receives extra compensation, in addition to such salary, for all overtime hours worked at a rate not less than one-half the employee's regular rate of pay. Since the salary in such a situation is intended to compensate the employee at straight time rates for whatever hours are worked in the workweek, the regular rate of the employee will vary from week to week and is determined by dividing the number of hours worked in the workweek into the amount of the salary and any non-excludable bonus or

premium payments to obtain the applicable hourly rate for the week. Payment for overtime hours at one-half such rate in addition to the salary, bonus and premium payments satisfies the overtime pay requirement because such hours have already been compensated at the straight time regular rate. Payment of overtime premiums and other bonus and non-overtime premium payments will not invalidate the ''fluctuating workweek'' method of overtime payment, but such payments must be included in the calculation of the regular rate unless excluded under section 7(e)(1) through (8) of the Act.

(b)(1) The application of the principles above stated may be illustrated by the case of an employee whose hours of work do not customarily follow a regular schedule but vary from week to week, whose overtime work is never in excess of 50 hours in a workweek, and whose salary of $600 a week is paid with the understanding that it constitutes the employee's straight time compensation for whatever hours are worked in the workweek. If during the course of 4 weeks this employee works 40, 44, 50, and 48 hours, the regular hourly rate of pay in each of these weeks is approximately $15.00, $13.64, $12.00, and $12.50, respectively. Since the employee has already received straight-time compensation on a salary basis for all hours worked in these examples, only additional half-time pay is due. For the first week the employee is entitled to be paid $600; for the second week $627.28 ($600 plus 4 hours at $6.82, or 40 hours at $13.64 plus 4 hours at $20.46); for the third week $660 ($600 plus 10 hours at $6.00, or 40 hours at $12.00 plus 10 hours at $18.00); for the fourth week approximately $650 ($600 plus 8 hours at $6.25 or 40 hours at $12.50 plus 8 hours at $18.75).

(2) If, in each week in the examples in paragraph (b)(1) of this section, 4 of the hours the employee worked were nightshift hours compensated at a premium rate of an extra $5.00 per hour, the employee's total compensation would be calculated as follows: For the first week the employee is entitled to be paid $620 (salary compensation of $600 plus $20.00 of non-overtime premium pay, with no overtime hours); for the second week $648.20 (salary compensation of $600 plus $20.00 of non-overtime premium pay, with a regular rate of $14.09 and four hours of overtime at $7.05 for a total overtime payment of $28.20); for the third week $682.00 (salary compensation of $600 plus $20.00 of non-overtime premium pay, with a regular rate of $12.40 and ten hours of overtime at $6.20 for a total overtime payment of $62.00); for the fourth week $671.68 (salary compensation of $600 plus $20.00 of non-overtime premium pay, with a regular rate of $12.92 and eight hours of overtime at $6.46 for a total overtime payment of $51.68).

(c) The ''fluctuating workweek'' method of overtime payment may not be used unless the amount of the salary plus any bonus or premium payments not excluded from the regular rate under section 7(e)(1) through (8) of the Act is sufficiently large to assure that no workweek will be worked in which the employee's average hourly earnings fall below the minimum hourly wage rate applicable under the Act, and unless the employee clearly understands that the salary amount covers all the hours worked in the workweek, whether few or many, and the employer pays the salary amount even though the workweek is one in which a full schedule of hours is not worked. Typically, such salaries are paid to employees who do not customarily work a regular schedule of hours and are in amounts agreed on by the parties as adequate straight-time compensation for long workweeks as well as short ones, under the circumstances of the employment as a whole. Where all the legal prerequisites for use of the ''fluctuating workweek'' method of overtime payment are present, the Act, in requiring that ''not less than'' the prescribed premium of 50 percent for overtime hours worked be paid, does not prohibit paying more. On the other hand, where all the facts indicate that an employee is being paid for overtime hours at a rate no greater than that which the employee receives for non-overtime hours, compliance with the Act cannot be rested on any application of the fluctuating workweek overtime formula.

30. Amend § 778.200 by adding paragraph (a) (8) and revising paragraph (b) to read as follows:

§ 778.200 Provisions governing inclusion, exclusion, and crediting of particular payments.

(a) * * *

(8) Any value or income derived from employer-provided grants or rights provided pursuant to a stock option, stock appreciation right, or bona fide employee stock purchase program which is not otherwise excludable under any of paragraphs (1) through (7) if—

(i) Grants are made pursuant to a program, the terms and conditions of which are communicated to participating employees either at the beginning of the employee's participation in the program or at the time of the grant;

(ii) In the case of stock options and stock appreciation rights, the grant or right cannot be exercisable for a period of at least 6 months after the time of grant (except that grants or rights may become exercisable because of an employee's death, disability, retirement, or a change in corporate ownership, or other circumstances permitted by regulation), and the exercise price is at least 85 percent of the fair market value of the stock at the time of grant;

(iii) Exercise of any grant or right is voluntary; and

(iv) Any determinations regarding the award of, and the amount of, employer-provided grants or rights that are based on performance are—

(A) Made based upon meeting previously established performance criteria (which may include hours of work, efficiency, or productivity) of any business unit consisting of at least 10 employees or of a facility, except that any determinations may be based on length of service or minimum schedule of hours or days of work; or

(B) Made based upon the past performance (which may include any criteria) of one or more employees in a given period so long as the determination is in the sole discretion of the employer and not pursuant to any prior contract.

(b) *Section 7(h).* This subsection of the Act provides as follows:

(1) Except as provided in paragraph (2), sums excluded from the regular rate pursuant to subsection (e) shall not be creditable toward wages required under section 6 or overtime compensation required under this section.

(2) Extra compensation paid as described in paragraphs (5), (6), and (7) of subsection (e) of this section shall be creditable toward overtime compensation payable pursuant to this section.

* * * * *

31. Amend § 778.208 by revising the first sentence to read as follows:

§ 778.208 Inclusion and exclusion of bonuses in computing the ''regular rate.''

Section 7(e) of the Act requires the inclusion in the regular rate of all remuneration for employment except eight specified types of payments. * * *

PART 779—THE FAIR LABOR STANDARDS ACT AS APPLIED TO RETAILERS OF GOODS OR SERVICES

32–33. The authority citation for part 779 is revised to read as follows:

Authority: Secs. 1–19, 52 Stat. 1060, as amended; 75 Stat. 65; Sec. 29(B), Pub. L. 93–259, 88 Stat. 55; 29 U.S.C. 201–219.

34. Revise the undesignated center heading for §§ 779.371 and 779.372 to read as follows:

Automobile, Truck and Farm Implement Sales and Services, and Trailer, Boat and Aircraft Sales

35. Amend § 779.371 by revising the fifth sentence of paragraph (a) to read as follows:

§ 779.371 Some automobile, truck, and farm implement establishments may qualify for exemption under section 13(a)(2).

(a) * * * Section 13(b)(10) is applicable not only to automobile, truck, and farm implement dealers but also to dealers in trailers, boats, and aircraft. * * *

* * * * *

36. Amend § 779.372 by revising paragraphs (a), (b)(1)(ii), (b)(2), and (c) to read as follows:

§ 779.372 Nonmanufacturing establishments with certain exempt employees under section 13(b)(10).

(a) *General.* A specific exemption from only the overtime pay provisions of section 7 of the Act is provided in section 13(b)(10) for certain employees of nonmanufacturing establishments engaged in the business of selling automobiles, trucks, farm implements, trailers, boats, or aircraft. Section 13(b)(10)(A) states that the provisions of section 7 shall not apply with respect to ''any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles, trucks, or farm implements, if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles or implements to ultimate purchasers.'' Section 13(b)(10)(B) states that the provisions of section 7 shall not apply with respect to ''any salesman primarily engaged in selling trailers, boats, or aircraft, if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats, or aircraft to ultimate purchasers.'' This exemption will apply irrespective of the annual dollar volume of sales of the establishment or of the enterprise of which it is a part.

(b) * * *

(1) * * *

(ii) The establishment must be primarily engaged in the business of selling automobiles, trucks, or farm implements to the ultimate purchaser for section 13(b)(10)(A) to apply. If these tests are met by an establishment the exemption will be available for salesmen, partsmen and mechanics, employed by the establishment, who are primarily engaged during the work week in the selling or servicing of the named items. Likewise, the establishment must be primarily engaged in the business of selling trailers, boats, or aircraft to the ultimate purchaser for the section 13(b)(10)(B) exemption to be available for salesmen employed by the establishment who are primarily engaged during the work week in selling these named items. An explanation of the term ''employed by'' is contained in §§ 779.307 through 779.311. The exemption is intended to apply to employment by such an establishment of the specified categories of employees even if they work in physically separate buildings or areas, or even if, though working in the principal building of the dealership, their work relates to the work of physically separate buildings or areas, so long as they are employed in a department which is functionally operated as part of the dealership.

(2) This exemption, unlike the former exemption in section 13(a)(19) of the Act prior to the 1966 amendments, is not limited to dealerships that qualify as retail or service establishments nor is it limited to establishments selling automobiles, trucks, and farm implements, but also includes dealers in trailers, boats, and aircraft.

(c) *Salesman, partsman, or mechanic.*

(1) As used in section 13(b)(10)(A), a salesman is an employee who is employed for the purpose of and is primarily engaged in making sales or obtaining orders or contracts for sale or servicing of the automobiles, trucks, or farm implements that the establishment is primarily engaged in selling. As used in section 13(b)(10)(B), a salesman is an employee who is employed for the purpose of and is primarily engaged in making sales or obtaining orders or contracts for sale of trailers, boats, or aircraft that the establishment is primarily engaged in selling. Work performed incidental to and in conjunction with the employee's own sales or solicitations, including incidental deliveries and collections, is regarded as within the exemption.

(2) As used in section 13(b)(10)(A), a partsman is any employee employed for the purpose of and primarily engaged in requisitioning, stocking, and dispensing parts.

(3) As used in section 13(b)(10)(A), a mechanic is any employee primarily engaged in doing mechanical work (such as get ready mechanics, automotive, truck, or farm implement mechanics, used car reconditioning mechanics, and wrecker mechanics) in the servicing of an automobile, truck or farm implement for its use and operation as such. This includes mechanical work required for safe operation, as an automobile, truck, or farm implement. The term does not include employees primarily performing such nonmechanical work as washing, cleaning, painting, polishing, tire changing, installing seat covers, dispatching, lubricating, or other nonmechanical work. Wrecker mechanic means a service department mechanic who goes out on a tow or wrecking truck to perform mechanical servicing or repairing of a customer's vehicle away from the shop, or to bring the vehicle back to the shop for repair service. A tow or wrecker truck driver or helper who primarily performs nonmechanical repair work is not exempt.

(4) Employees variously described as service manager, service writer, service advisor, or service salesman, who are primarily engaged in obtaining orders for servicing of automobiles, trucks, or farm implements that the establishment is primarily engaged in selling, are exempt under section 13(b)(10)(A). Such employees typically perform duties such as greeting customers and obtaining information regarding their service or repair concerns; diagnosing the mechanical condition of the automobile, truck, or farm implement brought in for repair; offering and attempting to sell appropriate diagnostic or repair services; providing estimates for the recommended services or repairs; writing up orders for work authorized by the customer; assigning the work to various employees; directing and checking on the work of mechanics; and communicating with customers regarding the status of their vehicles.

* * * * *

PART 780—EXEMPTIONS APPLICABLE TO AGRICULTURE, PROCESSING OF AGRICULTURAL COMMODITIES, AND RELATED SUBJECTS UNDER THE FAIR LABOR STANDARDS ACT

37–38. The authority citation for part 780 continues to read as follows:

Authority: Secs. 1–19, 52 Stat. 1060, as amended; 75 Stat. 65; 29 U.S.C. 201–219.

39. Revise § 780.400 to read as follows:

§ 780.400 Statutory provisions.

Section 13(b)(12) of the Fair Labor Standards Act exempts from the overtime provisions of section 7 any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a sharecrop basis, and which are used

exclusively for supply and storing of water, at least 90 percent of which was ultimately delivered for agricultural purposes during the preceding calendar year.

40. Amend § 780.401 by revising the first sentence of paragraph (a) and all of paragraph (b) to read as follows:

§ 780.401 General explanatory statement.

(a) Section 13(b)(12) of the Act contains the same wording exempting any employee employed in agriculture as did section 13(a)(6) prior to the 1966 amendments. * * *

(b) In addition to exempting employees engaged in agriculture, section 13(b)(12) also exempts from the overtime provisions of the Act employees employed in specified irrigation activities. The effect of the 1997 amendment to section 13(b)(12) is to expand the overtime exemption for any employee employed in specified irrigation activities used for supply and storing of water for agricultural purposes by substituting ''water, at least 90 percent of which was ultimately delivered for agricultural purposes during the preceding calendar year'' for the prior requirement that all the water be used for agricultural purposes. Prior to the 1966 amendments employees employed in specified irrigation activities were exempt from the minimum wage and overtime pay requirements of the Act.

* * * * *

41. Revise § 780.406 to read as follows:

§ 780.406 Exemption is from overtime only.

This exemption applies only to the overtime provisions of the Act and does not affect the minimum wage, child labor, recordkeeping, and other requirements of the Act.

42. Amend § 780.408 by revising the section heading and the first four sentences of the paragraph to read as follows:

§ 780.408 Facilities of system at least 90 percent of which was used for agricultural purposes.

Section 13(b)(12) requires for exemption of irrigation work that the ditches, canals, reservoirs, or waterways in connection with which the employee's work is done be ''used exclusively for supply and storing of water at least 90 percent of which was ultimately delivered for agricultural purposes during the preceding calendar year.'' If a water supplier supplies water of which more than 10 percent is used for purposes other than ''agricultural purposes'' during the preceding calendar year, the exemption would not apply. For example, the exemption would not apply where more than 10 percent of the water supplier's water is delivered to a municipality to be used for general, domestic, and commercial purposes. The fact that a small amount of the water furnished for use in farming operations is in fact used for incidental purposes by the farmer on the farm does not, however, require the conclusion that such water was not ultimately delivered for agricultural purposes within the meaning of the irrigation exemption in section 13(b)(12). * * *

PART 785—HOURS WORKED

43. The authority citation for part 785 is revised to read as follows:

Authority: 52 Stat. 1060; 29 U.S.C. 201–219; 29 U.S.C. 254.

44. Amend § 785.9 by adding a sentence after the third sentence in paragraph (a) to read as follows:

§ 785.9 Statutory exemptions.

(a) * * * The use of an employer's vehicle for travel by an employee and activities that are incidental to the use of such vehicle for commuting are not considered ''principal'' activities when meeting the following conditions: The use of the employer's vehicle for travel is within the normal commuting area for the employer's business or establishment and the use of the employer's vehicle is subject to an agreement on the part of the employer and the employee or the representative of such employee. * * *

45. Amend § 785.34 by adding a sentence after the first sentence to read as follows:

§ 785.34 Effect of section 4 of the Portal-to-Portal Act.

* * * Section 4(a) further provides that the use of an employer's vehicle for travel by an employee and activities that are incidental to the use of such vehicle for commuting are not considered principal activities when the use of such vehicle is within the normal commuting area for the employer's business or establishment and is subject to an agreement on the part of the employer and the employee or the representative of such employee. * * *

46. Amend § 785.50 by adding a sentence at the end of paragraph (a)(2) to read as follows:

§ 785.50 Section 4 of the Portal-to-Portal Act.

* * * * *

(a) * * *

(2) * * * For purposes of this subsection, the use of an employer's vehicle for travel by an employee and activities performed by an employee which are incidental to the use of such vehicle for commuting shall not be considered part of the employee's principal activities if the use of such vehicle for travel is within the normal commuting area for the employer's business or establishment and the use of the employer's vehicle is subject to an agreement on the part of the employer and the employee or representative of such employee.

* * * * *

PART 786—MISCELLANEOUS EXEMPTIONS AND EXCLUSIONS FROM COVERAGE

47. The authority citation for part 786 continues to read as follows:

Authority: 52 Stat. 1060, as amended; 29 U.S.C. 201–219.

48. Revise the heading of part 786 to read as set forth above.

49. Add subpart G consisting of § 786.300 to read as follows:

Subpart G—Youth Opportunity Wage

§ 786.300 Application of the youth opportunity wage.

Section 6(g) of the Fair Labor Standards Act allows any employer to pay any employee who has not attained the age of 20 years a wage of not less than $4.25 an hour during the first 90 consecutive calendar days after such employee is initially employed by such employer. For the purposes of hiring workers at this wage, no employer may take any action to displace employees, including partial displacements such as reducing hours, wages, or employment benefits. Any employer that violates these provisions is considered to have violated section 15(a)(3) of the Act.

50. Add subpart H consisting of § 786.350 to read as follows:

Subpart H—Volunteers at Private Non-Profit Food Banks

§ 786.350 Exclusion from definition of ''employee'' of volunteers at private non-profit food banks.

Section 3(e)(5) of the Fair Labor Standards Act excludes from the definition of the term ''employee'' individuals who volunteer their services solely for humanitarian purposes at private non-profit food banks and who receive groceries from the food banks.

PART 790—GENERAL STATEMENT AS TO THE EFFECT OF THE PORTAL-TO-PORTAL ACT OF 1947 ON THE FAIR LABOR STANDARDS ACT OF 1938

51. The authority citation for part 790 is revised to read as follows:

Authority: 52 Stat. 1060, as amended; 100 Stat. 1755; 29 U.S.C. 201–219; 29 U.S.C. 254.

52. Amend § 790.3 by adding a sentence at the end of paragraph (a)(2) to read as follows:

§ 790.3 Provisions of the statute.

* * * * *

(a) * * *

(2) * * * For purposes of this subsection, the use of an employer's vehicle for travel by an employee and activities performed by an employee which are incidental to the use of such vehicle for commuting shall not be considered part of the employee's principal activities if the use of such vehicle for travel is within the normal commuting area for the employer's business or establishment and the use of the employer's vehicle is subject to an agreement on the part of the employer and the employee or representative of such employee.

* * * * *

[FR Doc. E8–16631 Filed 7–25–08; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 219

[Docket ID: MMS–2007–OMM–0067]

RIN 1010–AD46

Allocation and Disbursement of Royalties, Rentals, and Bonuses—Oil and Gas, Offshore

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Extension of comment period for a proposed rule.

SUMMARY: The Minerals Management Service hereby gives notice that it is extending the public comment period on a proposed rule, which was published in the **Federal Register** on May 27, 2008, with public comments due by July 28, 2008. The proposed rule would amend the regulations on distribution and disbursement of royalties, rentals, and bonuses to include the allocation and disbursement of revenues from certain leases on the Gulf of Mexico Outer Continental Shelf in accordance with the provisions of the Gulf of Mexico Energy Security Act of 2006. (73 FR 30331, May 27, 2008).

DATES: Written comments must be received by the extended due date of August 11, 2008. The MMS may not fully consider comments received after this date.

ADDRESSES: You may submit comments on the rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1010–AD46 as an identifier in your message. See also Public Availability of Comments under Procedural Matters.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Under the tab ''More Search Options,'' click Advanced Docket Search, then select ''Minerals Management Service'' from the agency drop-down menu, then click ''submit.'' In the Docket ID column, select MMS–2007–OMM–0067 to submit public comments and to view supporting and related materials available for this rulemaking. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link. The MMS will post all comments to the docket.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; *Attention:* Regulations and Standards Branch (RSB); 381 Elden Street, MS–4024, Herndon, Virginia 20170–4817. Please reference ''Allocation and Disbursement of Royalties, Rentals, and Bonuses—Oil and Gas, Offshore, 1010–AD46'' in your comments and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Marshall Rose, Chief, Economics Division, Offshore Energy and Minerals Management at (703) 787–1538.

SUPPLEMENTARY INFORMATION: MMS has extended the deadline by two weeks for submitting comments on the proposed rule in order to give the public additional time to comment on its many new provisions.

Dated: July 23, 2008.

Walter D. Cruickshank,

Acting Director, Minerals Management Service.

[FR Doc. E8–17247 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–MR–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–1698; MB Docket No. 08–128; RM–11460]

Television Broadcasting Services; Hendersonville, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a channel substitution proposed by Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network (''Trinity''), the licensee of WPGD–DT, DTV channel 51, Hendersonville, Tennessee. Trinity requests the substitution of DTV channel 33 for channel 51 at Hendersonville.

DATES: Comments must be filed on or before August 27, 2008, and reply comments on or before September 11, 2008.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Colby M. May, Esq., P.C., 205 3rd Street, SE., Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: David Brown, *david.brown@fcc.gov*, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 08–128, adopted July 18, 2008, and released July 21, 2008. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com*. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202)

418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(i), the DTV Table of Allotments under Tennessee, is amended by adding channel 33 and removing channel 51 at Hendersonville.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E8–17244 Filed 7–25–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–1485; MB Docket No. 08–98; RM–11435]

Television Broadcasting Services; Honolulu, Hawaii and Waimanalo, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a joint channel substitution proposed by Pacifica Broadcasting Company (''PBC'') and Oceania Christian Church (''OCC''). PBC is the permittee of KALO–DT, DTV channel *10, Honolulu, Hawaii. OCC is the permittee of KUPU–DT, channel 38, Waimanalo, Hawaii. PBC and OCC requests the substitution of DTV channel *38 for channel *10 at Honolulu, Hawaii and DTV channel 15 for channel 38 at Waimanalo, Hawaii.

DATES: Comments must be filed on or before August 27, 2008 and reply comments on or before September 11, 2008.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Harry F. Cole, Esq., Fletcher, Heald & Hildreth, PLC, 11th Floor, 1300 North 17th Street, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, *shaun.maher@fcc.gov*, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 08–98, adopted July 18, 2008, and released July 21, 2008. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC, 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com*. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(i), the DTV Table of Allotments under Hawaii, is amended by adding channel *38 and removing channel *10 at Honolulu and by adding channel 15 and removing channel 38 at Waimanalo.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E8–17243 Filed 7–25–08; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 73, No. 145
Monday, July 28, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0075]

Notice of Request for Extension of Approval of an Information Collection; Importation of Pork-Filled Pasta

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the importation of pork-filled pasta.

DATES: We will consider all comments that we receive on or before September 26, 2008.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component-/main?main=DocketDetail&d=APHIS-2008-0075* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2008–0075, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0075.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov*.

FOR FURTHER INFORMATION CONTACT: For information on regulations for the importation of pork-filled pasta, contact Dr. Lynette Williams, Staff Veterinarian, Technical Trade Services Team-Products, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737; (301) 734–0689. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS's Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Importation of Pork-Filled Pasta.

OMB Number: 0579–0214.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) is authorized, among other things, to prohibit or restrict the importation and interstate movement of animals and animal products to prevent the introduction into and dissemination within the United States of animal diseases and pests. To fulfill this mission, APHIS regulates the importation of animals and animal products into the United States. The regulations are contained in title 9, chapter 1, subchapter D, parts 92 through 98, of the Code of Federal Regulations. The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of specified animals and animal products into the United States to prevent the introduction into the U.S. livestock population of certain contagious animal diseases, including swine vesicular disease (SVD). Section 94.12 of the regulations contains, among other things, specific processing, recordkeeping, and certification requirements for pork-filled pasta products exported to the United States from regions affected with SVD.

The regulations require, among other things, that the pork-filled pasta products be accompanied by a certificate stating that the product has been handled and processed according to the requirements set forth in the regulations. This certificate must be issued and signed by an official of the national government of the region in which the pasta products were processed.

In addition, the processing facility where the pork-filled pasta products are produced must maintain original records (to be kept for a minimum of 2 years) that identify, for each lot of pork used, the date the pork entered the facility, the lot number, the health certificate that accompanied the pork from the slaughter/processing facility to the meat-filled pasta processing facility, and the date the pork either began either dry-curing or was cooked.

These records would provide important information in any traceback investigation that may need to be conducted by officials of the region of origin of the pork-filled pasta product, or by officials of the USDA.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Officials of the national government of the region in which the pork-filled pasta product is processed.

Estimated annual number of respondents: 1.

Estimated annual number of responses per respondent: 2.

Estimated annual number of responses: 2.

Estimated total annual burden on respondents: 2 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 22nd day of July 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–17217 Filed 7–25–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0063]

International Sanitary and Phytosanitary Standard-Setting Activities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with legislation implementing the results of the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade, we are informing the public of the international standard-setting activities of the World Organization for Animal Health, the Secretariat of the International Plant Protection Convention, and the North American Plant Protection Organization, and we are soliciting public comment on the standards to be considered.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0063* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2008–0063, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0063.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: For general information on the topics covered in this notice, contact Mr. John Greifer, Associate Deputy Administrator for SPS Management, International Services, APHIS, room 1132, South Building, 14th Street and Independence Avenue, SW., Washington, DC 20250; (202) 720–7677.

For specific information regarding standard-setting activities of the World Organization for Animal Health, contact Dr. Michael David, Director, Sanitary International Standards Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 33, Riverdale, MD 20737–1231; (301) 734–5324.

For specific information regarding the standard-setting activities of the International Plant Protection Convention or the North American Plant Protection Organization, contact Ms. Julie E. Aliaga, Program Director, International Phytosanitary Standards, PPQ, APHIS, 4700 River Road, Riverdale, MD 20737–1236; (301) 734–0763.

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established as the common international institutional framework for governing trade relations among its members in matters related to the Uruguay Round Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade. U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act (Pub. L. 103–465), which was signed into law by the President on December 8, 1994. The WTO Agreements, which established the WTO, entered into force with respect to the United States on January 1, 1995. The Uruguay Round Agreements Act amended Title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 *et seq.*). Section 491 of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2578), requires the President to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization. The designated agency must inform the public by publishing an annual notice in the **Federal Register** that provides the following information: (1) The SPS standards under consideration or planned for consideration by the international standard-setting organization; and (2) for each SPS standard specified, a description of the consideration or planned consideration of that standard, a statement of whether the United States is participating or plans to participate in the consideration of that standard, the agenda for U.S. participation, if any, and the agency responsible for representing the United States with respect to that standard.

''International Standard'' is defined in 19 U.S.C. 2578b as any standard, guideline, or recommendation: (1) Adopted by the Codex Alimentarius Commission (Codex) regarding food safety; (2) developed under the auspices of the World Organization for Animal Health (OIE, formerly known as the Office International des Epizooties) regarding animal health and zoonoses; (3) developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC) in cooperation with the North American Plant Protection Organization (NAPPO) regarding plant health; or (4) established by or developed under any other international organization agreed to by the member countries of the North American Free Trade Agreement (NAFTA) or the member countries of the WTO.

The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the Secretary of Agriculture as the official responsible informing the public of the SPS standard-setting activities of Codex, OIE, IPPC, and NAPPO. The United States Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) informs the public of Codex standard-setting activities, and USDA's Animal and Plant Health Inspection Service (APHIS) informs the public of OIE, IPPC, and NAPPO standard-setting activities.

FSIS publishes an annual notice in the **Federal Register** to inform the public of SPS standard-setting activities

for Codex. Codex was created in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization. It is the major international organization for encouraging international trade in food and protecting the health and economic interests of consumers.

APHIS is responsible for publishing an annual notice of OIE, IPPC, and NAPPO activities related to international standards for plant and animal health and representing the United States with respect to these standards. Following are descriptions of the OIE, IPPC, and NAPPO organizations and the standard-setting agenda for each of these organizations. We have described the agenda that each of these organizations will address at their annual general sessions, including standards that may be presented for adoption or consideration, as well as other initiatives that may be underway at the OIE, IPPC, and NAPPO.

The agendas for these meetings are subject to change, and the draft standards identified in this notice may not be sufficiently developed and ready for adoption as indicated. Also, while it is the intent of the United States to support adoption of international standards and to participate actively and fully in their development, it should be recognized that the U.S. position on a specific draft standard will depend on the acceptability of the final draft. Given the dynamic and interactive nature of the standard-setting process, we encourage any persons who are interested in the most current details about a specific draft standard or the U.S. position on a particular standard-setting issue, or in providing comments on a specific standard that may be under development, to contact APHIS. Contact information is provided at the beginning of this notice under **FOR FURTHER INFORMATION CONTACT**.

OIE Standard-Setting Activities

The OIE was established in Paris, France, in 1924 with the signing of an international agreement by 28 countries. It is currently composed of 172 member nations, each of which is represented by a delegate who, in most cases, is the chief veterinary officer of that country. The WTO has recognized the OIE as the international forum for setting animal health standards, reporting global animal disease events, and presenting guidelines and recommendations on sanitary measures relating to animal health.

The OIE facilitates intergovernmental cooperation to prevent the spread of contagious diseases in animals by sharing scientific research among its members. The major functions of the OIE are to collect and disseminate information on the distribution and occurrence of animal diseases and to ensure that science-based standards govern international trade in animals and animal products. The OIE aims to achieve these through the development and revision of international standards for diagnostic tests, vaccines, and the safe international trade of animals and animal products.

The OIE provides annual reports on the global distribution of animal diseases, recognizes the free status of Member countries for certain diseases, categorizes animal diseases with respect to their international significance, publishes bulletins on global disease status, and provides animal disease control guidelines to Member countries. Various OIE commissions and working groups undertake the development and preparation of draft standards, which are then circulated to Member countries for consultation (review and comment). Draft standards are revised accordingly and are then presented to the OIE International Committee (all the Member countries) during the General Session, which meets annually every May, for review and adoption. Adoption, as a general rule, is based on consensus of the OIE membership.

The next OIE General Session is scheduled for May 24–29, 2009, in Paris, France. Currently, the Deputy Administrator of APHIS Veterinary Services is the official U.S. Delegate to the OIE. The Deputy Administrator of APHIS intends to participate in the proceedings and will discuss or comment on APHIS' position on any standard up for adoption. Information about OIE draft Terrestrial and Aquatic Animal Health Code chapters may be found on the Internet at *http://www.aphis.usda.gov/import_export/animals/oie/* or by contacting Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above).

OIE Terrestrial Animal Health Code Chapters and Appendices Adopted by the May 2008 General Session

Note: Proposed appendices and chapters not yet assigned by number have been designated an ''x'' as a temporary placeholder by the OIE.)

1. Chapter 1.1.1, General Definitions

Various definitions were modified and updated, including the definitions for ''animal welfare,'' ''infection,'' ''herd,'' ''flock,'' ''monitoring,'' and ''surveillance.''

2. Chapter 1.2.1, General Obligations

The text in this chapter was modified to provide additional clarity regarding its content.

3. Chapter 1.3.5, Zoning and Compartmentalization

Minor changes were made to this chapter.

4. Chapter 2.2.10, Foot and Mouth Disease

Guidelines for quicker recovery of status after an outbreak, and the concept of ''containment zone'' were amended this year. In addition, a minor clarification to the definition of ''buffer zone'' was made.

5. Chapter 2.3.3, Bovine Tuberculosis

This chapter has undergone a revision to reflect current understanding of the disease.

6. Chapter 2.3.13, Bovine Spongiform Encephalopathy

This chapter received further modifications this year. In particular, restrictions on gelatin manufactured from certain bones (vertebrae and skulls) sourced from countries classified as either ''controlled'' or ''undetermined'' risk for BSE were increased.

7. Appendix 3.8.5, Factors To Consider in Conducting the Bovine Spongiform Encephalopathy Risk Assessment Recommended in Chapter 2.3.13

This appendix was revised by removing any reference to other transmissible spongiform encephalopathies (TSEs).

8. Section 2.5, Equine Diseases

The following equine Code chapters received further updates:

Chapter 2.5.5, Equine influenza; Chapter 2.5.7, Equine rhinopneumonitis; Chapter 2.5.10, Equine viral arteritis; and Chapter 2.5.14, African horse sickness.

9. Chapter 2.7.12, Avian Influenza

No significant changes were made to the content of this chapter; however, the Code Commission has asked the Scientific Commission to review the scientific literature to improve the current provisions for the inactivation of avian influenza virus in poultry meat and eggs and in poultry products intended for animal feeding or for agricultural use.

10. Chapter 2.7.13, Newcastle Disease

The chapter on Newcastle disease is modeled after the chapter on avian influenza. The definition of Newcastle

disease was clarified for Member countries regarding what is reportable.

11. Appendix 3.7.2, Guidelines for the Transport of Animals by Sea; Appendix 3.7.3, Guidelines for the Transport of Animals by Land; Appendix 3.7.5, Guidelines for the Slaughter of Animals; and Appendix 3.7.6, Guidelines for the Killing of Animals for Disease Control Purposes

As in previous years, these guidelines were slightly updated.

12. Appendix x.x.x, Guidelines on Dog Population Control

The draft guidelines on stray dog control have undergone a second revision and are likely to undergo further revisions in the coming years.

13. Appendix x.x.x, Animal Identification and Traceability

This draft appendix has been further modified to provide Member countries with some general guidelines to consider when designing and implementing an animal identification system.

OIE Terrestrial Animal Health Code Chapters and Appendices for Future Review

Existing Terrestrial Animal Health Code chapters that may be revised and new chapters that may be drafted in preparation for the next General Session in 2009 include the following:

1. Chapter 2.2.x, West Nile Fever

Due to the number of comments received this year, the Code Commission will address changes to this chapter for the next session in May 2009.

2. Chapter 2.3.1, Bovine Brucellosis

3. Chapter 2.3.15, Contagious Bovine Pleuropneumonia

4. Chapter 2.4.8, Scrapie

5. Chapter 2.10.2, Salmonella Enteritidis and Salmonella Typhimurium in Poultry

6. Appendix 3.4.1, Hygiene and Disease Security Guidelines in Poultry Breeding Flocks and Hatcheries

7. Appendix 3.10.2, Guidelines on the Detection, Control, and Prevention of Salmonella Enteritidis and Salmonella Typhimurium in Poultry Producing Eggs for Human Consumption

8. Appendix x.x.x, Guidelines for the Control of Hazards of Animal Health and Public Health Importance in Animal Feed

9. Appendix x.x.x, Guidelines for the Harvesting and Culling of Wildlife

10. Appendix x.x.x, Guidelines for Laboratory Animal Welfare

OIE Aquatic Animal Health Code Chapters and Appendices up for Adoption

Aquatic Animal Health Code chapters and appendices that have been revised or which are new for adoption at the 2009 General Session include:

Chapter 1.1.1, Definitions; Chapter 1.2.3, Diseases listed by the OIE; Chapter 1.3.1, General obligations; Chapter 2.2.5, Infection with *Mikrocytos mackini*; Chapter 2.3.9, Infectious myonecrosis; Chapter 2.3.11, White Tail disease; Chapter 2.4.1, Infection with *Batrachochytrium dendrobatidis*; Chapter 2.4.2, Infection with ranavirus; Chapter x.x.x, Guidelines for aquatic animal health surveillance; and Chapter x.x.x., Guidelines for the control of aquatic animal health hazards in aquatic animal feeds.

OIE Aquatic Animal Commission Future Work Program

During the next few years, the OIE Aquatic Animal Commission may address the following issues or establish ad hoc groups of experts to update or develop standards for the following issues:

1. Guidelines on the handling and disposal of carcasses and wastes of aquatic animals.
2. Chapter 2.3.7, Crayfish plague.

The Process

The OIE Code chapters are drafted (or revised) by either the Terrestrial or Aquatic Animal Health Standards Commission or by ad hoc groups composed of technical experts nominated by the Director General of the OIE by virtue of their subject-area expertise. Once a new chapter is drafted or an existing one is revised, the chapter is distributed to Member countries for review and comment. The OIE attempts to provide proposed chapters by late October to allow Member countries sufficient time for comment. Comments are due by late January of the following year. The draft standard is revised by the OIE Code Commission on the basis of relevant scientific comments received from Member countries.

The United States (*i.e.*, USDA/APHIS) intends to review, and where appropriate, comment on all draft chapters and revisions once it receives them from the OIE. USDA/APHIS intends to distribute these drafts to the U.S. livestock and aquaculture industries, veterinary experts in various U.S. academic institutions, other State and Federal agencies, and other interested persons for review and comment. Additional information regarding these draft standards may be obtained by contacting Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above).

Generally, if a country has concerns with a particular draft standard, and supports those concerns with sound technical information, the pertinent OIE Code Commission will revise that standard accordingly and present the revised draft for adoption at the General Session in May. In the event that a country's concerns regarding a draft standard are not taken into account, that country may refuse to support the standard when it comes up for adoption at the General Session. However, each Member country is obligated to review and comment on proposed standards, and make decisions regarding the adoption of those standards, strictly on their scientific merits.

Other OIE Topics

Every year at the General Session, at least one technical item is presented. For the May 2009 General Session, the following technical item will be presented:

1. Impact of climate change and environmental changes on emerging and re-emerging animal diseases and animal production.

The information in this notice includes all the information available to us on OIE standards currently under development or consideration. Information on OIE standards is available on the Internet at *http://www.oie.int*. Further, a formal agenda for the next General Session should be available to Member countries by March 2009, and copies will be available to the public once the agenda is published. For the most current information on meeting times, working groups, and/or meeting agendas, including information on official U.S. participation in OIE activities and U.S. positions on standards being considered, contact Dr. Michael David (see **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any areas of work under the OIE may do so at any time by responding to this notice

(see **ADDRESSES** above) or by providing comments through Dr. Michael David.

IPPC Standard-Setting Activities

The IPPC is a multilateral convention adopted in 1952 for the purpose of securing common and effective action to prevent the spread and introduction of pests of plants and plant products and to promote appropriate measures for their control. Under the IPPC, the understanding of plant protection has been, and continues to be, broad, encompassing the protection of both cultivated and noncultivated plants from direct or indirect injury by plant pests. Activities addressed by the IPPC include the development and establishment of international plant health standards, the harmonization of phytosanitary activities through emerging standards, the facilitation of the exchange of official and scientific information among countries, and the furnishing of technical assistance to developing countries that are signatories to the IPPC.

The IPPC is under the authority of the Food and Agriculture Organization (FAO), and the members of the Secretariat of the IPPC are appointed by the FAO. The IPPC is implemented by national plant protection organizations (NPPOs) in cooperation with regional plant protection organizations (RPPOs); the Commission on Phytosanitary Measures ((CPM), formerly referred to as the International Commission on Phytosanitary Measures (ICPM)); and the Secretariat of the IPPC. The United States plays a major role in all standard-setting activities under the IPPC and has representation on FAO's highest governing body, the FAO Conference.

The United States became a contracting party to the IPPC in 1972 and has been actively involved in furthering the work of the IPPC ever since. The IPPC was amended in 1979, and the amended version entered into force in 1991 after two-thirds of the contracting countries accepted the amendment. More recently, in 1997, contracting parties completed negotiations on further amendments that were approved by the FAO Conference and submitted to the parties for acceptance. This 1997 amendment updated phytosanitary concepts and formalized the standard-setting structure within the IPPC. The 1997 amended version of the IPPC entered into force after two-thirds of the contracting parties notified the Director General of FAO of their acceptance of the amendment in October 2005. The U.S. Senate gave its advice and consent to acceptance of the newly revised IPPC on October 18, 2000. The President submitted the official letter of acceptance to the FAO Director General on October 4, 2001.

The IPPC has been, and continues to be, administered at the national level by plant quarantine officials whose primary objective is to safeguard plant resources from injurious pests. In the United States, the national plant protection organization is APHIS' Plant Protection and Quarantine (PPQ) program. The steps for developing a standard under the IPPC are described below.

Step 1: Proposals for a new international standard for phytosanitary measures (ISPM) or for the review or revision of an existing ISPM are submitted to the Secretariat of the IPPC in a standardized format on a 2-year cycle. Alternatively, the Secretariat can propose a new standard or amendments to existing standards.

Step 2: After review by the Standards Committee and the Strategic Planning and Technical Assistance Working Group, a summary of proposals is submitted by the Secretariat to the CPM. The CPM identifies the topics and priorities for standard setting from among the proposals submitted to the Secretariat and others that may be raised by the CPM.

Step 3: Specifications for the standards identified as priorities by the CPM are drafted by the Standards Committee. The draft specifications are subsequently made available to members and RPPOs for comment (60 days). Comments are submitted in writing to the Secretariat. Taking into account the comments, the Standards Committee finalizes the specifications.

Step 4: The standard is drafted or revised in accordance with the specifications by a working group designated by the Standards Committee. The resulting draft standard is submitted to the Standards Committee for review.

Step 5: Draft standards approved by the Standards Committee are distributed to members by the Secretariat and RPPOs for consultation (100 days). Comments are submitted in writing to the Secretariat. Where appropriate, the Standards Committee may establish open-ended discussion groups as forums for further comment. The Secretariat summarizes the comments and submits them to the Standards Committee.

Step 6: Taking into account the comments, the Secretariat, in cooperation with the Standards Committee, revises the draft standard. The Standards Committee submits the final version to the CPM for adoption.

Step 7: The ISPM is established through formal adoption by the CPM according to Rule X of the Rules of Procedure of the CPM.

Step 8: Review of the ISPM is completed by the specified date or such other date as may be agreed upon by the CPM.

Each member country is represented on the CPM by a single delegate. Although experts and advisors may accompany the delegate to meetings of the CPM, only the delegate (or an authorized alternate) may represent each member country in considering a standard up for approval. Parties involved in a vote by the CPM are to make every effort to reach agreement on all matters by consensus. Only after all efforts to reach a consensus have been exhausted may a decision on a standard be passed by a vote of two-thirds of delegates present and voting.

Technical experts from the United States have participated directly in working groups and indirectly as reviewers of all IPPC draft standards. The United States also has a representative on the Standards Committee. In addition, documents and positions developed by APHIS and NAPPO have been sources of significant input for many of the standards adopted to date. This notice describes each of the IPPC standards currently under consideration or up for adoption. The full text of each standard will be available on the Internet at *http://www.aphis.usda.gov/import_export/plants/plant_exports/draft_standards_4_ comment.shtml*. Interested individuals may review the standards posted on this Web site and submit comments via the Web site.

The next CPM meeting is scheduled for March 30–April 3, 2009, at FAO Headquarters in Rome, Italy. The Deputy Administrator for APHIS' PPQ program is the U.S. delegate to the CPM. The Deputy Administrator intends to participate in the proceedings and will discuss or comment on APHIS' position on any standards up for adoption. The agenda for the Fourth Session of the Commission of Phytosanitary Measures is as follows:

1. Opening of the session
2. Adoption of the agenda
3. Election of the Rapporteur
4. Report by the CPM chairperson
5. Report by the Secretariat
6. Report of the technical consultation among RPPOs
7. Report of observer organizations
8. Goal 1: A robust international standard-setting and implementation programme
   8.1 Report by the chairperson of the

Standards Committee
8.2 Adoption of international standards—under the regular process
8.3 Adoption of international standards—under the special-track process
8.4 IPPC standard-setting work programme (with proposed adjustments)
9. Goal 2: Information exchange systems appropriate to meet IPPC obligations
9.1 Proposed work programme for 2009
10. Goal 3: Effective dispute settlement systems
10.1 Report of the chairperson of the Subsidiary Body on Dispute Settlement
11. Goal 4: Improved phytosanitary capacity of members
12. Goal 5: Sustainable implementation of the IPPC
12.1 Report of the third meeting of the Strategic Planning and Technical Assistance (SPTA) group
12.2 IPPC/CPM activities
12.2.1 State of membership to the IPPC
12.2.2 Acceptance of documents in electronic format
12.3 Update to the Business Plan 2008–2011
12.4 Financial report and budget
12.4.1 Financial report 2008
12.4.2 Financial report 2008 for the Trust Fund for the IPPC
12.4.3 CPM Operational Plan for 2009
12.4.4 Budget 2009 for the Trust Fund for the IPPC
12.5 Proposal for the adoption of CPM recommendations
13. Goal 6: International promotion of the IPPC and cooperation with relevant regional and international organizations
13.1 Report on the international promotion of the IPPC and cooperation with relevant regional and international organizations
14. Goal 7: Review of the status of plant protection in the world
15. Election of the Bureau
16. Membership of CPM subsidiary bodies
17. Calendar
18. Other business
19. Date and venue of the next meeting
20. Adoption of the report

IPPC Standards Adopted at the CPM–3 Session in 2008

1. Establishment of Areas of Low Pest Prevalence for Fruit Flies (Tephritidae)

This standard provides guidelines for the establishment and maintenance of areas of low pest prevalence for fruit flies of economic importance (including places and sites of production of low pest prevalence) for use as a risk mitigation measure to facilitate trade of fruits and vegetables. The decision to create a fruit fly area of low pest prevalence (FF–ALPP) for export of a particular host of fruit fly is closely linked to trade opportunities and to economic and operational feasibility.

2. Sampling of Consignments

This standard provides guidance to NPPOs in selecting appropriate sampling methodologies for inspection or testing of consignments to verify compliance with phytosanitary requirements. The standard provides a statistical basis for inspection of consignments of regulated articles moving in trade.

3. Amendments to ISPM No. 5 (Glossary of Phytosanitary Terms)

A. The following term and definition has been adopted to the Glossary of phytosanitary terms in ISPM No. 5:

• *Bark:* The layer of a woody trunk, branch or root outside the cambium.

B. The following terms and definitions have been revised in the Glossary:

• *Bark-free wood:* Wood from which all bark, except ingrown bark around knots and bark pockets between rings of annual growth, has been removed.

• *Debarked wood:* Wood that has been subjected to any process that results in the removal of bark (debarked wood is not necessarily bark-free wood).

C. The following terms have been deleted from the Glossary:

• Authority
• Biological pesticide (biopesticide)
• Classical biological control
• Establishment (of a biological control agent)
• Exotic
• Import Permit (of a biological control agent)
• Introduction (of a biological agent)
• Micro-organism
• Specificity

4. IPPC ISPM Recommendation No. 1: National Strategies for Replacing or Reducing the Use of Methyl Bromide as a Phytosanitary Measure

IPPC Recommendation No. 1 provides guidance to NPPOs on the replacement of or reduction in the use of methyl bromide (MB) as a phytosanitary measure in order to reduce emissions of MB. With the overall aim of reducing release of MB into the atmosphere, NPPOs may consider methods of reducing the quantities of MB used, reducing MB emissions by physical means, and promoting and implementing phytosanitary measures that are economically and technically feasible as viable alternatives to the use of MB. This IPPC Recommendation also provides guidance on recording the use of MB and encourages NPPOs to share data with the country's National Ozone Unit (the national body responsible for the implementation of the Montreal Protocol).

IPPC Standards Up for Adoption in 2009

It is expected that the following standards will be sufficiently developed to be considered by the CPM for adoption at its 2009 meeting. The United States, represented by APHIS' Deputy Administrator for PPQ, will participate in consideration of these standards. The U.S. position on each of these issues will be developed prior to the CPM session and will be based on APHIS' analysis, information from other U.S. Government agencies, and relevant scientific information from interested stakeholders.

1. Structure and Operation of Post-Entry Quarantine Facilities

This standard describes general guidelines for the design and operation of post-entry quarantine (PEQ) facilities for holding consignments of plants in containment. Four levels of containment are specified. For all PEQ containment levels, an operating procedures manual should show how the PEQ facility meets the containment requirements.

2. Pest-Free Potato Micropropagative Material and Minitubers for International Trade

This standard will provide guidance on the production, maintenance, and certification of pest-free potato (*Solanum* spp.) micropropagative material and minitubers intended to be moved in international trade. This standard does not apply to movement of field-grown seed potatoes intended for consumption or processing.

3. Categorization of Commodities According to Their Phytosanitary Risk

This standard will provide guidance for contracting parties on how to categorize commodities according to their phytosanitary risk when considering import requirements. This categorization could be useful in identifying whether further analysis is required.

The first stage of categorization is based on whether the commodity has been processed and, if so, the method and degree of processing to which the commodity has been subjected before

export. A second stage of categorization of commodities is based on their intended use after import.

Contaminating pests or storage pests that may become associated with the commodity after processing are not considered in this standard.

4. Regulating Wood Packaging Material in International Trade: Revision of ISPM No. 15

This standard describes phytosanitary measures that reduce the risk of introduction and/or spread of quarantine pests associated with the movement in international trade of wood packaging material made from raw wood. Wood packaging material covered by this standard includes dunnage but excludes wood packaging made from wood processed in such a way that it is free from pests.

Measures described in this standard are not intended to provide ongoing protection from contaminating pests or other organisms.

5. Amendments to ISPM No. 5 (Glossary of Phytosanitary Terms):

A. The following terms and definitions will be proposed for addition to the Glossary of phytosanitary terms in ISPM No. 5:

- *Incidence (of a pest):* Proportion or number of units in a sample, consignment, field or other defined population that is affected by a pest.
- *Tolerance level (of a pest):* Incidence of a pest that is a threshold for action to control that pest or to prevent its spread or introduction.
- *Phytosanitary security (of a consignment):* Maintenance of the integrity of a consignment and prevention of its infestation and contamination by regulated pests through the application of appropriate phytosanitary measures.
- *Corrective action plan (in an area):* Documented plan of phytosanitary actions to be implemented if a pest is detected or a specified pest level is exceeded in an area officially delimited for phytosanitary purposes.

B. The following terms will be proposed for revision:

- *Compliance procedure (for a consignment):* Official procedure used to verify that a consignment complies with phytosanitary import requirements or phytosanitary measures related to transit.
- *Intended use:* Declared purpose for which plants, plant products, or other articles are imported, produced, or used.
- *Reference specimen:* Specimen (which may be a culture) from a population of a specific organism conserved in an accessible collection, for the purpose of identification, verification or comparison.

6. Terminology of the Convention of Biological Diversity in Relation to the Glossary of Phytosanitary Terms: Draft Supplement to ISPM No. 5 (Glossary of Phytosanitary Terms)

In order to address initiatives within the IPPC regarding the protection of the environment and of biological diversity in relation to the introduction and spread of non-indigenous species, relevant terminology concerning the environment and biological diversity for use in ISPMs is needed. The Convention on Biological Diversity (CBD) has proposed a number of such terms and definitions in the framework of its ''guiding principles for the prevention, introduction and mitigation of impacts of alien species that threaten ecosystems, habitats or species.'' Attempts to incorporate these terms into IPPC language for the Glossary have proven unsuccessful due to conceptual differences, therefore the CBD's terms are explained in this supplement.

7. Fruit Fly Trapping: Annex 1 to ISPM No. 26 (Establishment of Pest Free Areas for Fruit Flies (Tephritidae))

This annex provides detailed information for trapping surveys under different scenarios of pest population and control situations for different fruit fly species (Tephritidae) of economic importance. Different trapping systems and procedures should be used depending on the fruit fly status of the target area, which can be either an infested area, an area of low pest prevalence (ALPP), or a pest-free area (PFA). The information in this annex can therefore be applied to other ISPMs relating to fruit flies. The annex describes the most widely used trapping systems and procedures, although others are available that may obtain equivalent results for fruit fly surveys.

New Standard-Setting Initiatives, Including Those in Development

A number of expert working group meetings or other technical consultations will take place during 2008 and 2009 on the topics listed below. These standard-setting initiatives are under development and may be considered for future adoption. APHIS intends to participate actively and fully in each of these working groups. The U.S. position on each of the topics to be addressed by these various working groups will be developed prior to these working group meetings and will be based on APHIS' technical analysis, information from other U.S. Government agencies, and relevant scientific information from interested stakeholders.

1. Preclearance for Regulated Articles

This standard will provide guidance on the justification, establishment, reviewing, phasing out, and terminating of pre-clearance arrangements and offer a model framework for pre-clearance programs (where justified), including criteria for terminating pre-clearance arrangements in favor of other phytosanitary measures.

2. Systems Approach(es) for Pest Risk Management of Fruit Flies (Tephritidae)

This standard will provide guidelines for the establishment and use of systems approach(es) as an option for pest risk management of fruit flies to facilitate trade of fruits. The standard applies to fruit flies (Tephritidae) of economic importance.

3. Systems Approach for Managing Pest Risks Associated With the International Trade of Plants for Planting

This standard will provide guidelines for the development and evaluation of a systems approach as an option for pest risk management of the production and international movement of plants for planting (excluding seeds) in commercial trade.

4. International Movement of Wood

This standard will provide guidelines for risk management for raw (green) and treated wood and wood products moving in international trade through the application of phytosanitary measures. The standard will not apply to wood packaging material, which would remain wholly within the scope of ISPM No. 15.

5. Soil and Growing Media

This standard will provide guidance for the evaluation of risks associated with soil and growing media and describe phytosanitary integrated measures in a systems approach to manage the hazards of soil attached to imported plants from the country of origin upon arrival.

6. Revision of ISPMs 7 (Export Certification System) and 12 (Guidelines for Phytosanitary Certificates)

Existing ISPMs No. 7 and 12 have been reviewed for amendment to provide specific guidance on the procedures, which cover technical, legal, administrative and operational aspects, including export issues related to re-export and consignment in transit.

7. New Diagnostic Protocols in Draft Form

The following diagnostic protocols have been developed by the Technical Panel on Diagnostic Protocols and are in draft form: *Erwinia amylovora; Xanthomonas axonopodis* pv. *citri*; *Liberibacter* spp.; *Xanthomonas fragariae*; *Phytophthora ramorum*; *Anastrepha* spp.; *Bursaphelenchus xylophilus*; *Ditylenchus destructor/D. dipsaci;* Plum pox virus; and Topoviruses (TSWV, INSV, WSMV).

For more detailed information on the above topics, which will be addressed by various working groups established by the CPM, contact Ms. Julie E. Aliaga (see **FOR FURTHER INFORMATION CONTACT** above).

APHIS posts draft standards on the Internet (*http://www.aphis.usda.gov/import_export/plants/plant_exports/draft_standards_4_comment.shtml*) as they become available and provides information on the due dates for comments. Additional information on IPPC standards is available on the IPPC Web site at *http://www.ippc.int/IPP/En/default.htm.* For the most current information on official U.S. participation in IPPC activities, including U.S. positions on standards being considered, contact Ms. Julie Aliaga (see **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any of the areas of work being undertaken by the IPPC may do so at any time by responding to this notice (see **ADDRESSES** above) or by providing comments through Ms. Aliaga.

NAPPO Standard-Setting Activities

NAPPO, a regional plant protection organization created in 1976 under the IPPC, coordinates the efforts among Canada, the United States, and Mexico to protect their plant resources from the entry, establishment, and spread of harmful plant pests, while facilitating intra- and inter-regional trade. NAPPO conducts its business through panels and annual meetings held among the three member countries. The NAPPO Executive Committee charges individual panels with the responsibility for drawing up proposals for NAPPO positions, policies, and standards. These panels are made up of representatives from each member country who have scientific expertise related to the policy or standard being considered. Proposals drawn up by the individual panels are circulated for review to Government and industry officials in Canada, Mexico, and the United States, who may suggest revisions. In the United States, draft standards are circulated to industry, States, and various government agencies for consideration and comment. The draft standards are posted on the Internet at *http://www.aphis.usda.gov/import_export/plants/plant_exports/draft_standards_4_comment.shtml.* Once revisions are made, the proposal is sent to the NAPPO Working Group and the NAPPO Standards Panel for technical reviews, and then to the Executive Committee for final approval, which is granted by consensus.

The annual NAPPO meeting is scheduled for October 21–24, 2008, in Guadalajara, Mexico. The NAPPO Executive Committee meeting will take place on October 20, 2008, and a session will be held on October 21, 2008, to solicit comments from industry groups so that suggestions can be incorporated into the NAPPO workplan for the 2009 NAPPO year. The Associate Deputy Administrator for PPQ is a member of the NAPPO Executive Committee. The Associate Deputy Administrator intends to participate in the proceedings and will discuss or comment on APHIS' position on any standard up for adoption or any proposals to develop new standards.

The work plan for 2008 was established after the October 2007 Annual Meeting in St. John's, Newfoundland, Canada. The Associate Deputy Administrator for PPQ participated in establishing this NAPPO work plan (see panel assignments below). Below is a summary of current panel assignments as they relate to the ongoing development of NAPPO standards. The United States (*i.e.*, USDA/APHIS) intends to participate actively and fully in the work of each of these panels. The U.S. position on each topic will be guided and informed by the best scientific information available on each of these topics. For each of the following panels, the United States will consider its position on any draft standard after it reviews a prepared draft. Information regarding the following NAPPO panel topics, assignments, activities, and updates on meeting times and locations may be obtained from the NAPPO homepage at *http://www.nappo.org* or by contacting Ms. Julie E. Aliaga (see **FOR FURTHER INFORMATION CONTACT** above).

1. Accreditation Panel

The panel conducted an in-depth audit of the Mexican system to comply with RSPM No. 8 (The Accreditation of Individuals to Sign Federal Phytosanitary Certificates). It will develop a regional phytosanitary standard on authorization to perform other phytosanitary procedures (*e.g.*, inspection, testing, and treatments).

2. Biological Control Panel

The panel will develop a list of approved biological control agents for importation into NAPPO countries and has developed guidelines for the importation and release of non-*Apis* pollinating insects into NAPPO countries.

3. Biotechnology Panel

The panel will revise RSPM 14 (Importation and Release into the Environment of Transgenic Plants in NAPPO Member Countries) by consolidating Modules 1–3 into a single standard that provides clear guidance on risk assessment for transgenic plants for any intended use (*e.g.*, movement, confined release, unconfined release, and non-propagative use). It will develop a discussion paper on emerging issues related to transgenic products that could pose a risk to plant health (*e.g.*, pharmaceutical plants or trees, or other perennials) and determine the feasibility of developing regional standards.

4. Citrus Panel

The panel convened a NAPPO workshop on Citrus Greening (Huanglongbing disease) in May 2008, and invited the participation of regional and international experts to exchange the latest research and regulatory information. The panel has revised RSPM 16 (Guidelines for the Importation of Citrus Propagative Material into a NAPPO Member Country), and updated annexes.

5. Electronic Phytosanitary Certification Panel

The panel will exchange information as NPPOs of NAPPO countries complete their systems (*e.g.*, security, documentation) to receive electronic phytosanitary certificate information; participate in other international fora on electronic certification (*e.g.*, UN–CEFACT, IPPC, etc.); and initiate the pilot project for electronic phytosanitary certification within the NAPPO region.

6. Forestry Panel

The panel has drafted a NAPPO standard on preventing the entry of Asian Gypsy Moth (AGM) into North America; will develop a NAPPO strategy for dealing with ongoing problems related to wood packaging that does not comply with ISPM No. 15 (Guidelines for regulating wood packaging material in international trade); develop a harmonized report of wood packaging compliance to post on the NAPPO Web site; and determine the need to establish a NAPPO standard for the regulatory

control of wooden handcrafts and outdoor furniture.

7. Fruit Panel

This panel has developed a NAPPO standard on determination and designation of host status of a commodity for fruit flies; will develop guidelines to determine the host range and adaptability of *Rhagoletis* spp. in the NAPPO region; prepare a specific case study to apply ISPM No. 10 (Requirements for the establishment of pest free places of production and pest free production sites); provide training on PCR techniques for identification of the Mediterranean fruit fly, *Ceratitis capitata*; provide training on identification of *Bactrocera* spp. using classical systematics (morphological characters); and evaluate and recommend NAPPO diagnostic protocols and treatments.

8. Fruit Tree Panel

The panel will review the text of RSPM No. 25 (Guidelines for International Movement of Pome and Stone Fruit Trees into a NAPPO Member Country) and make any necessary changes to accommodate bacterial, fungal, insect and nematode pests; complete the insect and nematode annexes to RSPM No. 25; collaborate with the Grapevine Panel to develop a proposal for a diagnostic workshop on fruit tree and grapevine pests; and evaluate and recommend NAPPO diagnostic protocols and treatments.

9. Grains Panel

The panel has developed a strategic plan for NAPPO countries to prepare for the potential arrival of new races of black stem rust, *e.g.*, *Puccinia graminis* f. sp. *tritici race TTKS*, in accordance with the framework developed in 2006/2007 and the pest fact sheet prepared by the NAPPO Pest Risk Analysis Panel; and will evaluate and recommend NAPPO diagnostic protocols and treatments.

10. Grapevine Panel

The panel will complete the annexes concerning bacteria, fungi, and significant arthropod and nematode pests of grapevines for RSPM No. 15 (Guidelines for the Importation of Grapevines into a NAPPO Member Country); review and make required changes to the annex on viruses in RSPM No. 15; develop, in collaboration with the Fruit Tree Panel, a proposal for a diagnostic workshop on fruit tree and grapevine pests; and evaluate and recommend NAPPO diagnostic protocols and treatments.

11. Invasive Species Panel

The panel will complete the position paper describing NAPPO's role regarding invasive species; has developed the NAPPO standard for evaluating the invasiveness of plants for planting (screening tool) and the NAPPO standard for identifying and prioritizing pest introduction pathways (pathway analysis); and will continue outreach efforts to other national and international organizations in North America, particularly those related to the environment.

12. Pest Risk Analysis Panel

This panel will develop a NAPPO fact sheet on *P. ramorum*; collate a list of information requirements in order to conduct a NAPPO Pest Risk Assessment (PRA) on the AGM (*Lymantria dispar*); conduct a NAPPO PRA on AGM in collaboration with the NAPPO Forestry Panel; provide support, as required, to the Grains Panel to develop a strategic plan to deal with new races of black stem rust (*Puccinia graminis*) in North America; provide support, as required, to the Fruit Panel to develop guidelines to determine the host range and adaptability of *Rhagoletis* spp. in the NAPPO region; and participate in the NAPPO Citrus Greening (Huanglongbing disease) workshop.

13. Phytosanitary Alert System Panel

The panel will continue to post timely pest alerts on the NAPPO Web site; determine ways to improve official pest reporting through the Phytosanitary Alert System (template, linkages, etc.); continue outreach efforts (including the NAPPO newsletter); and conduct an ongoing review of the Phytosanitary Alert Web page.

14. Plants for Planting

The panel will identify the constraints and recommend solutions for the implementation of RSPM No. 24 (Integrated Pest Risk Management Measures for the Importation of Plants for Planting in NAPPO Member Countries); draft guidelines, in collaboration with the NAPPO Accreditation Panel, for the authorization of auditors involved in the implementation of RSPM No. 24; review the use of terms (*e.g.*, certification, authorization) for consistency with the IPPC and ISPMs; and participate in IPPC activities related to the international standard on plants for planting.

15. Potato Panel

This panel will identify requirements for recognition of pest-free areas, pest-free places of production and pest-free production sites for *Globodera pallida* and *G. rostochiensis*; conduct the required five-year review of RSPM No. 3 (Requirements for the Importation of Potatoes into a NAPPO Member Country); determine the accuracy of RSPM No. 3, Annex 5 (Pre-shipment Testing for PVYn), based on the current knowledge of the North American PVY complex; collaborate with the European PPO on harmonizing requirements for mini-tuber, micro-tuber, and mini-plantlet production; and evaluate and recommend NAPPO diagnostic protocols and treatments.

16. Standards Panel

The panel will coordinate the review of new and amended NAPPO standards and implementation plans; exchange and discuss comments on draft ISPMs within NAPPO and with other RPPOs to build consensus on draft ISPMs and other IPPC-related issues, as appropriate; review draft RSPMs prepared by panels and make recommendations on their suitability for adoption by the Executive Committee; and review NAPPO position papers and policy documents to verify current relevance.

The PPQ Associate Deputy Administrator, as the official U.S. delegate to NAPPO, intends to participate in the adoption of these regional plant health standards, including the work described above, once they are completed and ready for such consideration.

The information in this notice contains all the information available to us on NAPPO standards currently under development or consideration. For updates on meeting times and for information on the working panels that may become available following publication of this notice, go to the NAPPO Web site on the Internet at *http://www.nappo.org* or contact Ms. Julie Aliaga (see **FOR FURTHER INFORMATION CONTACT** above). Information on official U.S. participation in NAPPO activities, including U.S. positions on standards being considered, may also be obtained from Ms. Aliaga. Those wishing to provide comments on any of the topics being addressed by any of the NAPPO panels may do so at any time by responding to this notice (see **ADDRESSES** above) or by transmitting comments through Ms. Aliaga.

Done in Washington, DC, this 22nd day of July 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–17216 Filed 7–25–08; 8:45 am]

BILLING CODE 3410–34–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: Certification Requirements for Distributors of NOAA Electronic Navigational Charts/NOAA Hydrographic Products.

Form Number(s): None.

OMB Approval Number: 0648–0508.

Type of Request: Regular submission.

Burden Hours: 328.

Number of Respondents: 8.

Average Hours per Response: Semi-annual reports, 1 hour; error reports, 1 hour and 30 minutes.

Needs and Uses: Electronic navigational charts (ENCs) are one of NOAA's products under its Nautical Charting Program. Official NOAA ENCs which conform to International Hydrographic Organization (IHO) standards may be used in a type approved display system, such as an Electronic Chart Display and Information System (ECDIS), to comply with Federal nautical chart carriage requirements administered by the U.S. Coast Guard.

In 2005, NOAA established a certification program for the re-distribution of official NOAA ENCs, codified in 15 CFR part 995, in order to ensure the quality and content of official NOAA ENCs remains intact throughout the redistribution process. The information collected allows NOAA to administer the regulation, and to better understand which ENCs are being distributed more often, resulting in products that meet the needs of the customer in a timely and efficient manner.

Affected Public: Business or other for-profit organizations.

Frequency: Semi-annually and on occasion.

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: July 22, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–17163 Filed 7–25–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

AGENCY: U.S. Census Bureau.

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):

Title: Annual Wholesale Trade Survey.

Form Number(s): SA–42, SA–42A, SA–42(MSBO), SA–42A(MSBO), SA–42(AGBR), SA–42A(AGBR).

OMB Control Number: 0607–0195.

Type of Request: Extension of a currently approved collection.

Burden Hours: 3,811.

Number of Respondents: 7,329.

Average Hours per Response: 31 minutes.

Needs and Uses: The Annual Wholesale Trade Survey (AWTS) canvasses firms located in the United States that are primarily engaged in merchant wholesale trade, including manufacturers' sales branches and offices, as well and non-merchant wholesale trade such as agents, brokers, and electronic markets. The estimates produced from the AWTS provide current trends of economic activity by kind of business for the United States, and serve as a benchmark for the estimates compiled from the Monthly Wholesale Trade Survey [OMB No. 0607–0190]. The AWTS estimates address the Bureau of Economic Analysis (BEA) need for annual measures of sales, e-commerce, inventories, and operating expenses, which serve to improve BEA's calculation of the Gross Domestic Product (GDP). Additionally, the estimates provide valuable information for economic policy decisions by the government and are widely used by private businesses, trade organizations, professional associations, and other business research and analysis organizations.

Affected Public: Business or other for-profit.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 182, 224, and 225.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: July 22, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–17164 Filed 7–25–08; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–891

Hand Trucks and Certain Parts Thereof from the People's Republic of China; Final Results of 2005–2006 Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') published its preliminary results of administrative review of the antidumping duty order on hand trucks and certain parts thereof (''hand trucks'') from the People's Republic of China (''PRC'') on January 14, 2008. The period of review (''POR'') is December 1, 2005, through November 30, 2006. We invited interested parties to comment on our preliminary results. Based on our analysis of the comments received, we have made changes to our preliminary results. Therefore, the final results differ from the preliminary results. The final dumping margin for this review is listed in the ''Final Results of Review'' section below.

EFFECTIVE DATE: July 28, 2008.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Eugene Degnan, AD/CVD

Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4474 or (202) 482–0414, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 14, 2008, the Department published its preliminary results. *See Hand Trucks and Certain Parts Thereof from the People's Republic of China; Preliminary Results, Partial Intent to Rescind and Partial Rescission of the 2005–06 Administrative Review*, 73 FR 2214 (January 14, 2008) (''*Preliminary Results*''). On February 19, 2008, the Department informed interested parties that it was postponing the due dates for submission of case briefs and rebuttal briefs. The Department conducted on–site verification of Qingdao Taifa Group Co., Ltd.'s (''Taifa'') questionnaire response from April 15 through April 18, 2008, in Qingdao, PRC. On May 16, 2008, the Department published an extension of the time limit for the final results to July 14, 2008. *See Hand Trucks and Certain Parts Thereof from the People's Republic of China: Extension of Time Limits for the Final Results of the Antidumping Duty Administrative Review*, 73 FR 28431 (May 16, 2008). On June 13, 2008, the Department released the verification report covering the verification of Taifa and informed interested parties that case briefs were due on June 20, 2008, and rebuttal briefs were due on June 25, 2008. On June 20, 2008, Gleason Industrial Products, Inc. and Precision Products, Inc. (*i.e.*, Petitioners) submitted a case brief. No other interested party submitted a case brief. No interested party submitted a rebuttal brief. On January 24, 2008, Petitioners requested a hearing. On June 23, 2008, Petitioners withdrew their request for a hearing. We have conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.213 and 351.221, as appropriate.

Period of Review

The POR is December 1, 2005, through November 30, 2006.

Scope of Order

The product covered by this order consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof.

A complete or fully assembled hand truck is a hand–propelled barrow consisting of a vertically disposed frame having a handle or more than one handle at or near the upper section of the vertical frame; at least two wheels at or near the lower section of the vertical frame; and a horizontal projecting edge or edges, or toe plate, perpendicular or angled to the vertical frame, at or near the lower section of the vertical frame. The projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load.

That the vertical frame can be converted from a vertical setting to a horizontal setting, then operated in that horizontal setting as a platform, is not a basis for exclusion of the hand truck from the scope of this petition. That the vertical frame, handling area, wheels, projecting edges or other parts of the hand truck can be collapsed or folded is not a basis for exclusion of the hand truck from the scope of the petition. That other wheels may be connected to the vertical frame, handling area, projecting edges, or other parts of the hand truck, in addition to the two or more wheels located at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition. Finally, that the hand truck may exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges or toe plate, and the two wheels at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition.

Examples of names commonly used to reference hand trucks are hand truck, convertible hand truck, appliance hand truck, cylinder hand truck, bag truck, dolly, or hand trolley. They are typically imported under heading 8716.80.50.10 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''), although they may also be imported under heading 8716.80.50.90. Specific parts of a hand truck, namely the vertical frame, the handling area and the projecting edges or toe plate, or any combination thereof, are typically imported under heading 8716.90.50.60 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope is dispositive.

Excluded from the scope are small two–wheel or four–wheel utility carts specifically designed for carrying loads like personal bags or luggage in which the frame is made from telescoping tubular material measuring less than 5/8 inch in diameter; hand trucks that use motorized operations either to move the hand truck from one location to the next or to assist in the lifting of items placed on the hand truck; vertical carriers designed specifically to transport golf bags; and wheels and tires used in the manufacture of hand trucks.

Rescission of Review

In our *Preliminary Results*, we preliminarily rescinded the review with respect to Since Hardware (Guangzhou) Co., Ltd. (''Since Hardware''); Formost Plastics & Metalworks (Jiazing) Co., Ltd. (''Formost''); and Forecarry Corp (''Forecarry''), in accordance with 19 CFR 351.213(d)(3), because we found no evidence of exports from these three entities during the POR. We reviewed U.S. Customs and Border Protection (''CBP'') entry data for the POR, which indicated no exports from these three entities during the POR. *See* the memorandum to the file ''U.S. Customs and Border Protection Data – No Shipments'' dated July 1, 2008. Therefore, we are rescinding the administrative review with respect to Since Hardware, Formost, and Forecarry.

Analysis of Comments Received

All issues raised in the post–preliminary comments by parties in this review are addressed in the memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, ''Issues and Decision Memorandum for the –Antidumping DutyAdministrative Review of Hand Trucks and Certain Parts Thereof from the People's Republic of China'' dated July 14, 2008 (''Issues and Decision Memorandum''), which is hereby adopted by this notice. A list of the issues which parties raised and to which we responded in the Issues and Decision Memorandum is attached to this notice as an appendix. The Issues and Decision Memorandum is a public document which is on file in the Central Records Unit, Room 1117, of the main Department building, and is accessible on the Web at *http://ia.ita.doc.gov/frn*. The paper copy and electronic version of the memorandum are identical in content.

Facts Available

A. Application of Facts Available

Section 776(a)(1) and (2) of the Act provides that the Department shall apply ''facts otherwise available'' if, *inter alia*, necessary information is not on the record or an interested party or any other person (A) withholds

information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as ''[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See Statement of Administrative Action to the Uruguay Round Agreements Act*, H.R. Doc. 103–316 at 870 (1994) (''SAA''). Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. Id. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.

Taifa

We conducted verification of Taifa from April 15 through April 18, 2008. *See* ''Verification of the Sales and Factors Response of Qingdao Taifa Group Import and Export Co., Ltd. and Qingdao Taifa Group Co., Ltd. in the Review of Hand Trucks and Certain Parts Thereof From the People's Republic of China'' (''Taifa Verification Report''), dated June 12, 2008. During verification, Taifa withheld information that had been requested and significantly impeded the proceeding by not cooperating to the best of its ability at verification. Additionally, the Department could not verify information that Taifa had provided in its questionnaire response. For example, Taifa consistently maintained in its questionnaire responses that the hand trucks that it sold did not have wheels attached and that it did not sell wheels in conjunction with hand trucks. All control numbers reported in Taifa's U.S. sales and factors–of production (''FOP'') databases submitted to the Department begin with the number ''2'' indicating that the hand truck is ''Fully Assembled Hand Truck Without Wheels.'' *See* Taifa's August 14, 2007, Sections C and D questionnaire response (''August 14 Response'') at page 9 and Exhibit C–1 and D–4 thereto. *See* also Taifa's December 26, 2007, supplemental questionnaire response (''December 26 Response'') in which Taifa states at page 2, '' . . . Taifa sold hand trucks to the United States without wheels, tires or tyres.'' In addition, Taifa states at page 3 of the December 26 Response: 1) '' . . . Taifa's customers purchase hand trucks (without wheels) and wheels separately''; and 2) Taifa's U.S. customers may purchase wheels from any companies in China, though they purchased hand trucks (without wheels) from Taifa with Taifa's anti–dumping duty rate.'' Taifa stated again at page 6 of the December 26 Response '' . . . Taifa sold hand trucks to the United States without wheels.'' Moreover, Taifa did not report wheels or the FOP for wheels in its FOP database. See Taifa's August 14 Response at Exhibit D–4. See also, Taifa's March 26, 2008, Supplemental Questionnaire Response at Question 11, where it submitted a chart indicating it made no sales of hand trucks with wheels to any market during the POR. At verification Department officials found hand truck production notices that included requirements/specifications for wheels. In addition, Department officials found commercial invoices that covered both hand trucks and wheels sold to the United States. Company officials stated that the hand trucks and wheels produced by Taifa (as well as wheels purchased by Taifa's customers from other parties) were packed in the same shipping container. Moreover, Taifa admitted that it did not attach wheels to the hand trucks to avoid paying dumping duties on the wheels. *See* Taifa Verification Report at pages 13 - 15. In addition, Department officials could not verify the ownership structure of Taifa because Taifa had failed to file a share transfer agreement with government authorities as required by Chinese law. *See* Taifa Verification Report at pages 5 – 7. Moreover, during verification at Taifa's production facility, Department officials requested that Taifa provide copies of warehouse out slips and production notices. Taifa officials repeatedly claimed that Taifa did not maintain copies of these records at the production facility and refused to answer certain questions with respect to these records. Department officials subsequently located these records, unassisted by Taifa officials, in the same building in which they had been requested. In addition, Department officials requested that Taifa provide its current production subledger to demonstrate that Taifa was currently in production of subject merchandise. Department officials requested this subledger five times over a period of 45 minutes, but it was not provided by Taifa officials. Subsequently, a Department official discovered company officials removing pages from this subledger. Further investigation by Department officials revealed that Taifa managers and employees were attempting to replace the removed pages with new pages that had just been created. *See* Taifa Verification Report at pages 11 -13. *See also* the accompanying Issues and Decision Memorandum at comment 1 and the memorandum to the file ''Application of Adverse Facts Available for Qingdao Taifa Group Co., Ltd. in the Final Results in the Antidumping Duty Administrative Review of Hand Trucks and Certain Parts Thereof from the People's Republic of China,'' dated July 14, 2008 (''AFA Memo''). Accordingly, because Taifa withheld information, significantly impeded the proceeding and provided information that could not be verified, we find that application of facts available is appropriate under sections 776(a)(2)(A), (B), and (C) of the Act. We further find that application of adverse facts available (''AFA'') is appropriate under section 776(b) because Taifa failed to cooperate to the best of its ability in responding to the Department's requests for information. Therefore, we are denying Taifa a separate rate and assigning it the PRC entity rate.

The PRC Entity

In the preliminary results, the Department preliminarily determined

that there were exports of merchandise under review from Qingdao Future Tool, Inc. (''Future Tool'') and Shandong Machinery I&E Group Corp. (''Shandong Machinery''), PRC producers/exporters that did not respond to the Department's questionnaire and consequently did not demonstrate their eligibility for separate–rate status. See *Preliminary Results* at 2217. As a result, the Department is treating these PRC producers/exporters as part of the PRC–wide entity, in addition to Taifa.

Additionally, because we determined that Future Tool, Shandong Machinery and Taifa are part of the PRC entity, the PRC entity is under review. Pursuant to section 776(a) of the Act, we further find that because the PRC entity (including the companies discussed above) failed to respond to the Department's questionnaires, withheld or failed to provide information in a timely manner or in the form or manner requested by the Department, submitted information that cannot be verified, or otherwise impeded the proceeding, it is appropriate to apply a dumping margin for the PRC entity using the facts otherwise available on the record.

B. Adverse Facts Available

According to section 776(b) of the Act, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. *See, e.g., Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (September 13, 2005); *see also Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (August 30, 2002). Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870. Furthermore, ''affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997); *see also Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003) (''*Nippon*''). The Department stated in the verification outline issued to Taifa on April 4, 2008, that ''it is in your client's interest to cooperate since failure to permit verification may result in the Department relying on adverse ''facts available'' under section 776 of the Tariff Act of 1930, as amended . . . .'' Taifa has not challenged the Department's characterization of Taifa's actions at verification as described in our verification report, and Taifa did not submit a case brief or rebuttal brief explaining its actions at verification.

Therefore, we find that the PRC entity has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information in this proceeding, within the meaning of section 776(b) of the Act. Therefore, an adverse inference is warranted in selecting from the facts otherwise available. *See Nippon*, 337 F.3d at 1382–83.

C. Selection of An AFA Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from: 1) the petition; 2) a final determination in the investigation; 3) any previous review or determination; or 4) any information placed on the record. The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse ''as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See, e.g., Certain Polyester Staple Fiber from Korea: Final Results of the 2005–2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664–65 (December 10, 2007) (selecting the petition rate, as adjusted at the initiation of the less than fair value investigation, as the AFA rate); *Certain Warmwater Shrimp from the People's Republic of China: Notice of Final Results and Rescission, in Part, of 2004–2006 Antidumping Duty Administrative and New Shipper Reviews*, 72 FR 52049, 52051 (Sept. 12, 2007) (assigning the petition rate from the less–than-fair–value investigation as the AFA rate). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870; *see also Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910, 76912 (December 23, 2004); Accordingly, the Department has assigned the rate of 383.60 percent to the PRC entity (including Taifa, Future Tool and Shandong Machinery) as AFA. This rate was assigned in the investigation of this proceeding and is the highest rate determined for any party in any segment of this proceeding. *See Amended Final Determination of Sales at Less Than Fair Value: Hand Trucks and Certain Parts Thereof From the People's Republic of China*, 69 FR 65410 (November 12, 2004) (*Amended Final Determination*).

Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* SAA at 870. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The Department, however, need not prove that the selected facts available are the best alternative information. *See* SAA at 869; *see also Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) (unchanged in the final results). Independent sources used to corroborate such evidence may include, for example, ''published price lists, official import statistics and customs data, and information obtained from interested parties during the instant investigation or review.'' *See* 19 CFR 351.308(d) and SAA at 870; *see also Notice of Preliminary Determination of Sales at Less Than Fair Value: High and Ultra–High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 35627, 35629 (June 16, 2003) (where the Department reviewed the adequacy and accuracy of the information in the petition) (unchanged in final determination); and *Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada*, 70 FR 12181, 12183 (March 11, 2005)

(where the Department compared the normal values and U.S. prices submitted by the petitioners to data submitted by the respondents for whom the Department calculated a margin).

The reliability of the 383.60 percent AFA rate was determined in the final determination of the investigation when the Department compared the U.S. prices from the price quotations in the petition to prices of comparable products sold by a mandatory respondent in the investigation, and found them to be comparable. *See Notice of Final Determination of Sales at Less Than Fair Value: Hand Trucks and Certain Parts Thereof from the People's Republic of China;* 69 FR 60980, 60982 (October 14, 2004) and the memorandum cited therein: ''Memorandum from John Brinkmann to the File,'' dated October 6, 2004 (''October 6, 2004, Memo''). The Department applied this rate as AFA to the PRC entity, which included Qingdao Xinghua Group Co., Ltd. (''Xinghua''), in the *Amended Final Determination*.[1] The Department also compared the surrogate values used in the petition to the surrogate values selected for the final determination, and then adjusted and replaced certain values to make them more accurate. Finally, the Department replaced the surrogate value ratios in the petition with those used in the final investigation. Therefore, in the investigation, the Department found this margin to be reliable. *See Amended Final Determination* at 60982 and the October 6, 2004, Memo. The Department applied this rate in the first administrative review and new shipper review and in the preliminary results of this review.

The application of this 383.60 percent rate was subject to comment in the first administrative review of this proceeding. *See Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of Administrative Review and Final Results of New Shipper Review*, 72 FR 27287 (May 15, 2007) (''2004 – 2005 Review'') and after the preliminary results in this segment were issued. *See Preliminary Results*. The Department has received no information to date that warrants revisiting the issue of the reliability of the rate calculation itself. *See, e.g., Certain Preserved Mushrooms From the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 68 FR 41304, 41307–41308 (July 11, 2003). Since no information has been presented in the current review that calls into question the reliability of this information, the Department finds the selected rate reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers From Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D&L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (where the Court ruled that the Department will not use a margin that has been judicially invalidated). Nothing on the record of this review calls into question the relevance of the margin selected as AFA. We cannot rely on data submitted by Taifa in the instant POR to corroborate the PRC–wide rate because Taifa did not submit FOP data for wheels and U.S. sales prices reported by Taifa did not cover wheels. Therefore, because Taifa did not provide certain data (as mentioned above), the Department is unable to calculate accurate dumping margins for corroboration purposes.

Moreover, this rate has not been invalidated judicially. Thus, it is appropriate to use the selected rate as AFA in the instant review. Therefore, we determine that the rate from the *Amended Final Determination* continues to be relevant for use in this administrative review.

As the recalculated *Amended Final Determination* rate is both reliable and relevant, we determine that it has probative value. As a result, the Department determines that the rate is corroborated for the purposes of this administrative review and may reasonably be applied to the PRC entity, as AFA. Accordingly, we determine that the rate of 383.60 percent, which is the highest rate from any segment of this administrative proceeding, meets the corroboration criteria established in section 776(c) of the Act that secondary information have probative value.

Separate Rates

In proceedings involving non–market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Since we determined it is appropriate to apply total AFA to the PRC entity (including Future Tool, Shandong Machinery, and Taifa) and it is the Department's current practice to deny a separate rate to respondents subject to an AFA rate, we are changing our preliminary determination and finding that Taifa is no longer eligible for a separate rate, and is subject to the PRC–wide rate of 383.60 percent.

Changes Since the Preliminary Results

Based on our analysis of comments received, and as stated above, Taifa is no longer eligible for a separate rate and is subject to the PRC–wide AFA rate of 383.60 percent. See the Issues and Decision Memorandum at Comments 1 and 2 and the AFA Memo for further discussion.

Final Results of Review

We determine that the following dumping margin exists for the period June 1, 2005, through May 31, 2006:

Exporter	Weighted–Average Margin (Percent)
PRC Entity	383.60

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments

[1] In the final determination, the Department applied total AFA to Xinghua, and assigned Xinghua the PRC-wide rate of 386.75 percent. *See Notice of Final Determination of Sales at Less Than Fair Value: Hand Trucks and Certain Parts Thereof from the People's Republic of China*, 69 FR 60980, 60984 (October 14, 2004). The Department revised the PRC-wide rate in the amended final determination from 386.75 percent to 383.60 percent. *See Amended Final Determination*, 69 FR at 65411.

of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for previously investigated or reviewed PRC and non–PRC exporters that have separate rates, the cash deposit rate will continue to be the exporter–specific rate published for the most recent period; (2) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, including Taifa, Shandong Machinery, Future Tool, and those companies for which this review has been rescinded, the cash deposit rate will be the PRC–wide rate of 383.60 percent; and (3) for all non–PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non–PRC exporter. These deposit requirements shall remain in effect until further notice.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these final results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 14, 2008.

David M. Spooner,

Assistant Secretaryfor Import Administration.

List of Comments

Comment 1: Application of AFA to Taifa Based Upon Taifa's Failure at Verification
Comment 2: Application of the PRC–Wide Rate to Taifa
Comment 3: Use of FA or AFA to Because Taifa Failed to Report FOPs for Wheels
Comment 4: Domestic Inland Freight
Comment 5: Wage Rates
Comment 6: Application of AFA to Taifa's Unreported Sales
Comment 7: Surrogate Value for V–Belt
Comment 8: Inflation Adjustment for Surrogate Value for Electricity
Comment 9: Market–Economy Inputs from South Korea
Comment 10: Surrogate Value for Marine Insurance
Comment 11: International Freight
Comment 12: Surrogate Value for Coal
Comment 13: Deflation Adjustment for Surrogate Values for Diesel Oil and Coal
Comment 14: Inflation Adjustment for Foreign Inland Truck Freight
Comment 15: Calculation of Domestic Inland Freight and Domestic Brokerage and Handling

[FR Doc. E8–17252 Filed 7–25–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–552–801

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Rescission of New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') is conducting new shipper reviews (''NSRs'') of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam (''Vietnam'') that cover the period of review (''POR'') of August 1, 2006, through July 31, 2007. *See Notice of Antidumping Duty Order: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003) (''*Order*''). On September 26, 2007, the Department initiated a new shipper review for Southern Fishery Industries Co., Ltd. (''South Vina''). *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Reviews*, 72 FR 15653 (October 9, 2007).

We preliminarily determine that South Vina's sales to the United States were made on a non-*bona fide* basis. Therefore, we have preliminarily rescinded the review with regard to South Vina. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the POR as listed below.

EFFECTIVE DATE: July 28, 2008.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2243.

SUPPLEMENTARY INFORMATION:

Background

On September 26, 2007, the Department initiated an antidumping duty new shipper review with regard to South Vina. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Reviews*, 72 FR 57296, (October 9, 2007). We received timely responses from South Vina on the following dates: Section A Questionnaire Response (November 8, 2007); Sections C & D Questionnaire Response (November 26, 2007); Appendix IX - Importer's Questionnaire Response (November 26, 2007); Supplemental Questionnaire Response (June 9, 2008).

On March 25, 2008, the Department extended the preliminary results of this new shipper reviews to July 22, 2008. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Time Limits for the Preliminary Results of the New Shipper Reviews*, 73 FR 15725 (March 25, 2008).

Scope of the Order

The product covered by this order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti, Pangasius Hypophthalmus (also known as Pangasius Pangasius), and Pangasius Micronemus*. Frozen fish fillets are lengthwise cuts of whole fish. The fillet products covered by the scope include boneless fillets with the belly flap intact (''regular'' fillets), boneless fillets with the belly flap removed (''shank'' fillets), boneless shank fillets cut into strips (''fillet strips/finger''), which include fillets cut into strips, chunks, blocks, skewers, or any other

shape. Specifically excluded from the scope are frozen whole fish (whether or not dressed), frozen steaks, and frozen belly-flap nuggets. Frozen whole dressed fish are deheaded, skinned, and eviscerated. Steaks are bone-in, cross-section cuts of dressed fish. Nuggets are the belly-flaps.

The subject merchandise will be hereinafter referred to as frozen ''basa'' and ''tra'' fillets, which are the Vietnamese common names for these species of fish. These products are classifiable under tariff article codes 1604.19.4000, 1604.19.5000, 0305.59.4000, 0304.29.6033 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (''HTSUS'').[1] This order covers all frozen fish fillets meeting the above specification, regardless of tariff classification. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Preliminary Rescission of New Shipper Reviews

The Department has preliminarily determined that the sales made by South Vina, which are under examination in the new shipper review, are not bona fide sales based on the totality of circumstances because: (1) the sales were made at high prices as compared to the average of other imports of frozen fish fillets under the same HTSUS classification; (2) the sales quantities are low as compared to the average of other imports of frozen fish fillets under the same HTSUS classification; and, (3) there exists on the record contradictory information with regard to the U.S. customer and whether the subject merchandise was resold at a profit. Due to the proprietary nature of the information discussed in our *bona fide* sales analysis, please *see* the separate memoranda addressing this issue for details.[2] Because the Department has found the sales by South Vina to be non-*bona fide*, there are no sales to review. Therefore, the Department is preliminarily rescinding the new shipper review with respect to South Vina. *See, e.g., Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1249 (CIT 2005). We intend, however, to provide South Vina with a final opportunity to clarify the conflicting information on the record of this review and to provide a reasonable explanation for the high prices and low quantities of its U.S. sales. Any additional information and argument presented by South Vina with respect to the above, and any rebuttal of such by interested parties, will be fully considered for the final results of this new shipper review.

Preliminary Results of the Reviews

As a result of our review, we preliminarily find that the Vietnam-wide rate is still applicable to South Vina's entries during the POR:

CERTAIN FROZEN FISH FILLETS FROM VIETNAM

Manufacturer/Exporter	Margin (Percent)
Southern Fishery Industries Co., Ltd.	63.88

The Department will disclose to parties of this proceeding the analysis performed in reaching the preliminary results within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of this new shipper review. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than five days after the deadline for submitting the case briefs. *See* 19 CFR 351.309(d). The Department requests that interested parties provide an executive summary of each argument contained within the case briefs and rebuttal briefs.

Any interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If we receive a request for a hearing, we plan to hold the hearing seven days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Department intends to issue the final results of this new shipper review, which will include the results of its analysis raised in any such comments, within 90 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of the final results, pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries on a per-unit basis.[3] The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of the concurrent administrative review because South Vina is considered part of the Vietnam-wide entity for that review period. If these preliminary results are adopted in our final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) per-unit duty assessment rates. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this is above *de minimis*.

Cash-Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this new shipper review for all shipments of subject merchandise from South Vina entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for subject merchandise produced and exported by South Vina, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (2) for subject merchandise exported by South Vina but not manufactured by South Vina, the cash deposit rate will continue to be the Vietnam-wide rate (*i.e.*, 63.88 percent); and (3) for subject merchandise manufactured by South Vina, but exported by any other party, the cash deposit rate will be the rate

[1] Until July 1, 2004, these products were classifiable under tariff article codes 0304.20.60.30 (Frozen Catfish Fillets), 0304.20.60.96 (Frozen Fish Fillets, NESOI), 0304.20.60.43 (Frozen Freshwater Fish Fillets) and 0304.20.60.57 (Frozen Sole Fillets) of the HTSUS. Until February 1, 2007, these products were classifiable under tariff article code 0304.20.60.33 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the HTSUS.

[2] *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from James C. Doyle, Director, Office 4 Import Administration, regarding *Bona Fide* Sales Analysis and Intent to Rescind the Review with Respect to Southern Fishery Industries Co., Ltd., dated July 22, 2008.

[3] We divided the total potentially uncollectable dumping duties (calculated multiplying 63.88% by the total entered value) for South Vina by the total entered quantity of subject merchandise sold to that importer during the POR to calculate a per-unit assessment amount. We will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.*, per-kilogram) rate by the weight in kilograms of each entry of the subject

applicable to the exporter. If the cash deposit rate calculated in the final results is zero or *de minimis*, no cash deposit will be required for those specific producer-exporter combinations. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.214(h)(i).

Dated: July 22, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–17234 Filed 7–25–08; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XJ25

Caribbean Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council (Council) and its Administrative Committee will hold meetings.

DATES: The meetings will be held on August 12–13, 2008. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Buccaneer Hotel, Estate Shoys, Christiansted, St. Croix, U.S. Virgin Islands.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920; telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Council will convene on Tuesday, August 12, 2008, from 9 a.m. to 5 p.m., and the Administrative Committee will meet from 5:15 p.m. to 6 p.m., on that same day. The Council will reconvene on Wednesday, August 13, 2008, from 9 a.m. to 5 p.m., approximately. Scoping meetings for Amendment 3 and 4 to the Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) will be held on August 13, 2008, from 9 a.m. to 11 a.m.

The Council will hold its 128th regular Council Meeting to discuss the items contained in the following agenda:

August 12, 2008

9 a.m. - 5 p.m.

Call to Order
Adoption of Agenda
Consideration of the 127th Council Meeting Verbatim Transcription
Executive Director's Report
Update Habitat Mapping NOS Studies - Mark Monaco
Annual Catch Limits/Accountability Measures (ACLs/AMs) Guidelines - Mark Millikin
Scientific and Statistical Committee (SSC) Report on ACLs and AMs - Barbara Kojis
Spiny Lobster ''Size Limit for Imports'' Final Action - Graciela Garcia-Moliner
Update Pilot Trap Vent Study - Julian Magras/Graciela Garcia-Moliner
PUBLIC COMMENT PERIOD (Five (5) minutes presentations)

5:15 p.m. - 6 p.m.

Administrative Committee Meeting
-Advisory Panel/Scientific and Statistical Committee/Habitat Advisory Panel (AP/SSC/HAP) Membership
-Budget 2008/09
-Statement of Organization Practices and Procedures (SOPPs) Amendment(s)
-Other Business

August 13, 2008

9 a.m. - 5 p.m.

9 a.m. - 11 a.m. - Scoping Sessions HMS

9 a.m. - 9:30 a.m.

-Amendment 3 to the Consolidated HMS FMP/Small Coastal Sharks

9:30 a.m. - 11 a.m.

-Amendment 4 to the Consolidated HMS FMP/Caribbean HMS Issues

11 a.m. - 5 p.m. - Continue Council Session

Bajo de Sico Survey Results - Jorge Garcia-Sais
Option Paper - Bajo de Sico/Permits/Trap Vents
Illegal Transport of Corals - Lisamarie Carrubba
Lionfish Invasion into the Caribbean Sea
Enforcement Reports
-Puerto Rico - DNER
-U.S. Virgin Islands - DPNR
-NOAA/NMFS
-U.S. Coast Guard
Administrative Committee Recommendations
Meetings Attended by Council Members and Staff
PUBLIC COMMENT PERIOD (Five (5) minutes presentations)
Other Business
-Limited Entry Deep-Water Fishery - Snapper Grouper - Puerto Rico
Next Council Meeting
-St. Thomas, U.S.V.I. - December 9–10, 2008 (tentative dates)

The meetings are open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be subjects for formal action during this meeting. Actions will be restricted to those issues specifically identified in this notice, and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico, 00918–1920, telephone (787) 766–5926, at least 5 days prior to the meeting date.

Dated: July 23, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–17238 Filed 7–25–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XJ26

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's (Council) Salmon Technical Team (STT) will hold a work session, which is open to the public, to develop recommendations for the September 2008 Council meeting.

DATES: The work session will be held Thursday, August 14, 2008, from 9 a.m. to 4 p.m. and Friday, August 15, 2008, from 8 a.m. to noon.

ADDRESSES: The work session will be held at the Pacific Fishery Management Council Office, Large Conference Room, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384; telephone: (503) 820–2280.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Salmon Management Staff Officer, Pacific Fishery Management Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the work session is to develop comments and recommendations to be included in the Council's September meeting briefing book related to salmon management, specifically, annual catch limits, research and data needs, the Central Valley recovery plan, and salmon methodology review topics.

Although non-emergency issues not contained in the meeting agenda may come before the STT for discussion, those issues may not be the subject of formal STT action during this meeting. STT action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the STT's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: July 23, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–17239 Filed 7–25–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 08–34]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 08–34 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: July 18, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

JUL 0 9 2008
In reply refer to:
USP001119-08

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 08-34, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Singapore for defense articles and services estimated to cost $962 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Same ltr to:

House	Senate
Committee on Foreign Affairs	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 08-34

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Singapore

(ii) Total Estimated Value:

Major Defense Equipment*	$276 million
Other	$686 million
TOTAL	$962 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:

Major Defense Equipment

72 AIM-120C-5 Advanced Medium Range Air-to-Air Missiles (AMRAAM)
128 AIM-120C-7 AMRAAM
6 AMRAAM Captive Air Training Missiles (CATMs)
50 MK-82 (GBU-38) Joint Direct Attack Munitions (JDAM) with BLU-111 Warhead
71 AN/AVS-9(V) Night Vision Goggles
50 Link 16 Multifunctional Information Distribution System-Low Volume Terminals (Fighter Data Link (FDL) Terminals)
30 AGM-154A-1 Joint Standoff Weapons (JSOW) with BLU-111 Warhead
30 AGM-154C JSOW
300,000 20mm Practice Round Cartridges
200 AIM-9X SIDEWINDER Missiles
4 AIM-9X SIDEWINDER Special Air Training Missiles (NATMs)
32 AIM-9X SIDEWINDER Captive Air Training Missiles (CATMs)
8 Tactical-9X WGU-51/B Guidance Units
12 CATM-9X WGU-51/B Guidance Units
72 MK-82 500lb Empty Bombs (Flight Test Only)
4 GBU-12 Bombs w/o Fuse (Flight Test Only)
4 Computer Control Group (Flight Test Only)
100 KMU-556/B JDAM Bomb Tail Kit Assemblies
4 MK-82/MK-84 Bomb Practice trainers

*** as defined in Section 47(6) of the Arms Export Control Act.**

Also includes, testing, integration, devices, missile containers, common munitions built-in test reprogramming equipment, aircrew safety equipment, mission data production system, drones, repair and return, electronic warfare systems and support, weapons trainers, software support and test equipment, life support and survival equipment, spares and repair parts, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, and other related elements of logistical and program support.

(iv) Military Department: Air Force (SAA Amendment #2, SAB) Navy (ADD)

(v) Prior Related Cases, if any:
FMS case SAA-$192M-24Feb06
FMS case SAA (Amd #1)-$917K-03Sep07

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(viii) Date Report Delivered to Congress: JUL 0 9 2008

POLICY JUSTIFICATION

Singapore - Munitions and Aircrew Training Program

The Government of Singapore has requested a possible sale of:

Major Defense Equipment

72 AIM-120C-5 Advanced Medium Range Air-to-Air Missiles (AMRAAM)
128 AIM-120C-7 AMRAAM
6 AMRAAM Captive Air Training Missiles (CATMs)
50 MK-82 (GBU-38) Joint Direct Attack Munitions (JDAM) with BLU-111 Warhead
71 AN/AVS-9(V) Night Vision Goggles
50 Link 16 Multifunctional Information Distribution System-Low Volume Terminals (Fighter Data Link (FDL) Terminals)
30 AGM-154A-1 Joint Standoff Weapons (JSOW) with BLU-111 Warhead
30 AGM-154C JSOW
300,000 20mm Practice Round Cartridges
200 AIM-9X SIDEWINDER Missiles
4 AIM-9X SIDEWINDER Special Air Training Missiles (NATMs)
32 AIM-9X SIDEWINDER Captive Air Training Missiles (CATMs)
8 Tactical-9X WGU-51/B Guidance Units
12 CATM-9X WGU-51/B Guidance Units
72 MK-82 500lb Empty Bombs (Flight Test Only)
4 GBU-12 Bombs w/o Fuse (Flight Test Only)
4 Computer Control Group (Flight Test Only)
100 KMU-556/B JDAM Bomb Tail Kit Assemblies
4 MK-82/MK-84 Bomb Practice trainers

Also included: testing, integration, devices, missile containers, common munitions built-in test reprogramming equipment, aircrew safety equipment, mission data production system, drones, repair and return, electronic warfare systems and support, weapons trainers, software support and test equipment, life support and survival equipment, spares and repair parts, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, and other related elements of logistical and program support. The estimated cost is $962 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country that has been, and continues to be, an important force for economic progress in Southeast Asia.

Singapore needs these munitions to support its F-15 aircraft. These short-range precision munitions will provide Singapore with a credible defense capability while avoiding the collateral damage associated with conventional gravity munitions. This program will enable Singapore to develop mission ready and experienced aircrew through its CONUS training program to support Singapore's future F-15 aircraft inventory. The long-term aircrew training program in CONUS continues a professional interaction and enhances interoperability with U.S. forces. Current U.S. Government policy is to enhance and strengthen our relationship with Singapore, and this proposed sale will support this policy.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be Raytheon Missile System Corporation of Tucson, Arizona and Boeing Integrated Defense Solutions of St. Louis, Missouri. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the participation of U.S. Government and contractor representatives in program management and technical reviews for two-week intervals twice annually.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 08-34

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The AIM-120C Advanced Medium Range Air-to-Air Missile (AMRAAM) is a supersonic, air launched, aerial intercept, guided missile featuring digital technology and micro-miniature solid-state electronics. The missile employs active radar target tracking, proportional navigation guidance, and active Radio Frequency target detection. It can be launched day or night in any weather and increases pilot survivability by allowing the pilot to disengage after missile launch and engage other targets. AMRAAM capabilities include lookdown/shootdown, multiple launches against multiple targets, resistance to electronic countermeasures, and interception of high- and low-flying and maneuvering targets. The AMRAAM All Up Round (AUR) is classified Confidential, major components and subsystems range from Unclassified to Confidential, and technical data and other documentation are classified up to Secret.

2. The AIM-9X SIDEWINDER missile is a supersonic, air-to-air guided missile that employs a passive infrared (IR) target acquisition system, proportional navigational guidance, a closed-loop position servo Fin Actuator Unit, and a Target Detector. It features digital technology and micro-miniature solid-state electronics. A solid-propellant Rocket Motor propels the missile. The AIM-9X is configured with an Annular Blast Fragmentation warhead controlled by an Electronic Safe-Arm Device. Jet Vane Control provides enhanced maneuverability over other variants of the AIM-9, as well as most currently fielded foreign infrared missiles, by deflecting rocket motor thrust to aid in turning. The AIM-9X AUR is Confidential, major components and subsystems range from Unclassified to Confidential, and technical data and other documentation are classified up to Secret. The AIM-9X tactical and CATM guidance units are subsets of the overall missile and were recently designated as MDE.

3. The AGM-154 Joint Standoff Weapon (JSOW) is a low cost, launch and leave, air launched standoff weapon that provides aircraft with a capability to attack well defended targets in day, night, and less-than-ideal weather conditions. The AGM-154A-1 with BLU-111 and AGM-154C missiles, including publications, documentation, operations, supply, maintenance, and training to be conveyed with this proposed sale

have the highest classification level of Confidential. The AGM-154A-1 with BLU-111 and AGM-154C JSOW incorporate components, software, and technical design information that are considered sensitive. The following JSOW components being conveyed by the proposed sale that are considered sensitive and may be classified up to Confidential include:

a. global positioning system/inertial navigation system
b. imaging infrared seeker
c. operation flight program software
d. missile operational characteristics and performance data

These elements are essential to the ability of the JSOW missile to selectively engage hostile targets under a wide range of operational, tactical and environmental conditions.

4. The Joint Direct Attack Munitions (JDAM) is a guidance tail kit that converts unguided free-fall bombs into accurate, adverse weather "smart" munitions. With the addition of a new tail section that contains an inertial navigational system and a global positioning system guidance control unit, JDAM improves the accuracy of unguided, general-purpose bombs in any weather condition. JDAM can be launched from very low to very high altitudes in a dive, toss and loft, or in straight and level flight with an on-axis or off-axis delivery. JDAM enables multiple weapons to be directed against single or multiple targets on a single pass. The JDAM AUR and all of its components are Unclassified; technical data for JDAM is classified up to Secret.

5. The Multifunctional Information Distribution System-Low Volume Terminal (MIDS-LVT) is an advanced Link-16 command, control, communications, and intelligence (C3I) system incorporating high-capacity, jam-resistant, digital communication links for exchange of near real-time tactical information, including both data and voice, among air, ground, and sea elements. MIDS-LVT is intended to support key theater functions such as surveillance, identification, air control, weapons engagement coordination, and direction for all services and allied forces. The system will provide jamming-resistant, wide-area communications on a Link-16 network among MIDS and Joint Tactical Information Distribution System (JTIDS) equipped platforms. The MIDS/LVT and MIDS On Ship Terminal hardware, publications, performance specifications, operational capability, parameters, vulnerabilities to countermeasures, and software documentation are classified Confidential. The classified information to be provided consists of that which is necessary for the operation, maintenance, and repair (through intermediate level) of the data link terminal, installed systems, and related software.

6. The AN/AVS-9 Night Vision Goggle (NVG) is a 3rd generation aviation NVG offering higher resolution, high gain, and photo response to near infrared. Features include independent eye-span adjustment, 25-mm eye relief eyepieces which easily accommodate eyeglasses, and a low-profile battery pack. Minus-blue filter screens glare from cockpit instrument lighting; class B filter (available with some variants) can accommodate aircraft color displays. Other features include low-distortion optics and automatic brightness control. The Night Vision Imaging System modification includes cockpit modifications to provide NVG-compatible cockpit lighting that optimizes NVG sensitivity, as well as external lighting capable of operating in a covert mode wherein only NVG-equipped personnel can see the aircraft external lighting. Hardware is Unclassified, and technical data and documentation to be provided are Unclassified.

7. Flight test assets of MK-82 500 lb Empty units, GBU-12s, and Computer Control Group items were recently designated MDE and will be used specifically for the flight test program. These assets will support the DCS contractor-directed flight test program and will not be transferred to Singapore. Only Boeing and USG flight test personnel will control these assets.

8. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. E8–17045 Filed 7–25–08; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 08–37]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 08–37 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: July 18, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

JUL 09 2008

In reply refer to:
USP001468-08

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 08-37, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Morocco for defense articles and services estimated to cost $155 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Acting Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Same ltr to:

House	Senate
Committee on Foreign Affairs	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 08-37

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act (U)

(i) **Prospective Purchaser:** Morocco

(ii) **Total Estimated Value:**

Major Defense Equipment*	$125 million
Other	$ 30 million
TOTAL	$155 million

(iii) **(Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 30 AIM-120C-5 Advanced Medium Range Air-to Air Missiles (AMRAAM); 60 AIM-9M SIDEWINDER Missiles; 20 AGM-88B/C HARM Missiles; 8 AGM-65D/G MAVERICK Missiles; 45 AGM-65H MAVERICK Missiles; 50 Joint Direct Attack Munition (JDAM) tail kits (which include 20 GBU-31 for MK-82, 500 lb bomb, and 30 GBU-38, for MK-84, 2000 lb bomb); 20 GBU-24, PAVEWAY III kits; 50 GBU-10, PAVEWAY II kits; 150 GBU-12, PAVEWAY II kits; 60 Enhanced GBU-12 PAVEWAY II bombs; 300 MK-82 training bombs; 60,000 20mm training projectiles; 4,000 ALE-47 self-protection chaff; 4,000 ALE-47 self-protection flares. Also included: Containers, bomb components, spare/repair parts, publications, documentation, personnel and training, contractor technical and logistics personnel services, and other related support elements.

(iv) **Military Department:** Air Force (YAB)

(v) **Prior Related Cases, if any:** none

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached

(viii) **Date Report Delivered to Congress:** JUL 09 2008

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Morocco – Weapons and Related Support for F-16 Aircraft

The Government of Morocco has requested a possible sale of 30 AIM-120C-5 Advanced Medium Range Air-to Air Missiles (AMRAAM); 60 AIM-9M SIDEWINDER Missiles; 20 AGM-88B/C HARM Missiles; 8 AGM-65D/G MAVERICK Missiles; 45 AGM-65H MAVERICK Missiles; 50 Joint Direct Attack Munition (JDAM) tail kits (which include 20 GBU-31 for MK-82, 500 lb bomb, and 30 GBU-38, for MK-84, 2000 lb bomb); 20 GBU-24, PAVEWAY III kits; 50 GBU-10, PAVEWAY II kits; 150 GBU-12, PAVEWAY II kits; 60 Enhanced GBU-12 PAVEWAY II bombs; 300 MK-82 training bombs; 60,000 20mm training projectiles; 4,000 ALE-47 self-protection chaff; 4,000 ALE-47 self-protection flares. Also included: Containers, bomb components, spare/repair parts, publications, documentation, personnel and training, contractor technical and logistics personnel services, and other related support elements. The estimated cost is $155M.

The proposed sale will contribute to the foreign policy and national security objectives of the United States by enhancing Morocco's capacity to support U.S. efforts in the Global War on Terrorism (GWOT), as well as supporting Morocco's legitimate need for its own self-defense. Morocco is one of the most stable and pro-Western of the Arab states, and the U.S. remains committed to a long-term relationship with Morocco. The proposed sale will allow the Moroccan Air Force to modernize its aging fighter inventory, thereby enabling Morocco to support both its own air defense needs and coalition operations. Morocco is a Major Non-NATO ally. Delivery of this weapon system will greatly enhance Morocco's interoperability with the U.S. and other NATO nations, making it a more valuable partner in an increasingly important area of the world. The country will have no difficulty absorbing this new capability into its armed forces.

The proposed sale of this weapon system will not affect the basic military balance in the region.

The principal contractors will be:

Lockheed Martin Aeronautics Company, Fort Worth, Texas
Lockheed Martin Missile and Fire Control, Dallas, Texas
Boeing Integrated Defense Systems, Seattle, Washington
Raytheon Missile Systems, Tucson, Arizona

There are no known offset agreements in connection with this proposed sale.

Implementation of this proposed sale will require multiple trips to Morocco involving U.S. Government and contractor representatives for technical reviews/support, program management, and training over a period of 15 years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 08-37

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The AIM-120C-5 Advanced Medium Range Air-to-Air Missiles (AMRAAM) is a supersonic, air launched, aerial intercept, guided missile featuring digital technology and micro-miniature solid-state electronics. The missile employs active radar target tracking, proportional navigation guidance, and active Radio Frequency target detection. It can be launched day or night, in any weather and increases pilot survivability by allowing the pilot to disengage after missile launch and engage other targets. AMRAAM capabilities include lookdown/shootdown, multiple launches against multiple targets, resistance to electronic countermeasures, and interception of high- and low-flying and maneuvering targets. The AMRAAM All-Up-Round is classified Confidential, major components and subsystems range from Unclassified to Confidential. Technical data and other documentation are classified up to Secret. Group A provision only will be transferred initially.

2. The Joint Direct Attack Munition (JDAM) is a guidance kit that converts existing unguided free-fall bombs into precision-guided "smart" munitions. By adding a new tail section containing an Inertial Navigation System (INS)/Global Positioning System (GPS) guidance to unguided bombs, the cost effective JDAM provides highly accurate weapon delivery in any "flyable" weather. The INS, using updates from the GPS, helps guide the bomb to the target via the use of movable tail fins. Weapon accuracy is dependent on target coordinates and present position as entered into the guidance control unit. After weapon release, movable tail fins guide the weapon to the target coordinates. In addition to the tail kit, other elements in the overall system that are essential for successful employment include:

Access to accurate target coordinates
INS/GPS capability
Operational Test and Evaluation Plan

3. The PAVEWAY II/III series of laser guided bombs consists of a guidance kit that converts existing unguided free-fall bombs into precision-guided "smart" munitions. At the core of each PAVEWAY II/III Munition Kit is a dumb bomb. A laser guidance kit is integrated with each dumb bomb to add the requisite level of accuracy. The kit consists of a computer-controlled group at the front end of the weapon and an airfoil group at the back. When a target is illuminated by a laser-either airborne or ground-based-the guidance fins react to signals from the control group and steer the weapon to the target. This precision-guided munition offers improved accuracy over free-fall bombs, thus providing the potential for reduced collateral damage.

4. The external view of the AIM-9M-1/2 Sidewinder missile is Unclassified and not sensitive. Advanced technology included in the missile: Active Optical Target Detector, Gyro Optics Assembly within the Guidance Control Section, Infrared Countermeasures, Detection and Rejection Circuitry, and a reduced smoke rocket motor. The equipment/hardware, software, and maintenance are classified Confidential. Pilot training is classified Secret. Manuals and technical documents are classified Secret. Performance and operating information is classified Secret.

5. The AGM-65G/H Maverick air-to-ground missile has an overall classification of Secret. The Secret aspects of the Maverick system are tactics, information revealing its vulnerability to countermeasures, and counter-countermeasures. Manuals and technical documents, which are necessary for operational use and organizational maintenance have portions that are, classified Confidential. Performance and operating logic of the countermeasures circuits are Secret.

6. The AGM-88B/C HARM is an air-to-surface missile designed to destroy or suppress enemy radars used for air defense. HARM has wide frequency coverage, is target reprogrammable in flight, and has a reprogrammable threat library. It entered service in 1983 and has undergone several software and hardware upgrade programs. The hardware and software for the system is classified Secret and ballistic date is classified Confidential.

7. Additional sensitive areas include operating manuals and maintenance technical orders containing performance information, operating and test procedures, and other information related to support operations and repair. The hardware, software, and data identified are classified to protect vulnerabilities, design and performance parameters and other similar critical information.

8. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. E8–17046 Filed 7–25–08; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 08–43]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 08–43 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: July 18, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

JUL 09 2008
In reply refer to:
USP002820-08

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 08-43, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Finland for defense articles and services estimated to cost $435 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Jeffrey A. Wieringa
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Same ltr to:

House
Committee on Foreign Affairs
Committee on Armed Services
Committee on Appropriations

Senate
Committee on Foreign Relations
Committee on Armed Services
Committee on Appropriations

Transmittal No. 08-43

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** Finland

(ii) **Total Estimated Value:**

Major Defense Equipment*	$397 million
Other	$ 38 million
TOTAL	$435 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 300 AIM-120C-7 Advanced Medium Range Air-to-Air Missiles (AMRAAM), missile containers, spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support.

(iv) **Military Department:** Air Force (YAE)

(v) **Prior Related Cases, if any:**
FMS Case QAA - $167K - 22Jan03
FMS Case QAB - $ 7M - 15Mar06
FMS Case YAA - $ 21M - 14Jan94

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached.

(viii) **Date Report Delivered to Congress:** JUL 09 2008

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Finland – AIM-120C-7 AMRAAM Missiles

The Government of Finland has requested a possible sale of 300 AIM-120C-7 Advanced Medium Range Air-to-Air Missiles (AMRAAM), missile containers, spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical and logistics support services, and other related elements of logistical and program support. The estimated cost is $435 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country that has been and continues to be an important force for political stability and economic progress in Europe.

Finland intends to use the AMRAAM missiles on its existing fleet of F/A-18C/D aircraft. The sale of AMRAAM missiles gives Finland credible territorial defense capability by increasing its sustainment capability during defensive operations, and extending the overall lifespan of its missile inventory. Finland, which already has AMRAAM missiles in its inventory, will have no difficulty absorbing these items.

The prime contractor will be Raytheon Electronic and Missile Systems of Tucson, Arizona. Offset agreements associated with this proposed sale are expected, but at this time the specific offset agreements are undetermined and will be defined in negotiations between the purchaser and contractor.

Implementation of this sale will not require the assignment of any additional U. S. Government personnel in-country.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 08-43

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The AIM-120C-7 Advanced Medium Range Air-to-Air Missile (AMRAAM) is a new generation air-to-air missile. The AIM-120C-7 AMRAAM hardware, including the missile guidance section, is classified Confidential. State-of-the-art technology is used in the missile to provide it with unique beyond-visual-range capability. Significant AIM-120C-7 features include a target detection device with embedded electronic countermeasures, an electronics unit within the guidance section that performs all radar signal processing, mid-course and terminal guidance, flight control, target detection and warhead burst point determination. Anti-tampering security measures have been incorporated into the AIM-120C-7 to prevent exploitation of the AMRAAM software.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon systems effectiveness or could be used in the development of a system with similar or advanced capabilities.

[FR Doc. E8–17047 Filed 7–25–08; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 08–77]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 08–77 with attached transmittal, and policy justification.

Dated: July 18, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
2800 DEFENSE PENTAGON
WASHINGTON, DC 20301-2800

JUL 09 2008

In reply refer to:
USP008291-08

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 08-77, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Germany for defense articles and services estimated to cost $250 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Acting Director

Enclosures:
1. **Transmittal**
2. **Policy Justification**

Same ltr to:

House	Senate
Committee on Foreign Affairs	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 08-77

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** Germany

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 0 million
Other	$250 million
TOTAL	$250 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** continuation of base services for the German Air Force Tornado aircraft operations at Holloman Air Force Base (AFB), New Mexico. Base services provided will be for operations and logistics support including training, fuel, munitions, base operating support, and other related operational/logistics requirements.

(iv) **Military Department:** Air Force (QAV)

(v) **Prior Related Cases, if any:**
FMS case QWT - $135M - 25Feb03
FMS case NDO - $109M - 24Jan00
FMS case QAS - $150M - 20Dec05

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** none

(viii) **Date Report Delivered to Congress:** JUL 09 2008

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Germany - Tornado Aircraft Training and Logistics Support

The Government of Germany has requested a possible sale for the continuation of base services for the German Air Force Tornado aircraft operations at Holloman Air Force Base (AFB), New Mexico. Base services provided will be for operations and logistics support including training, fuel, munitions, base operating support, and other related operational/logistics requirements. The estimated cost is $250 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Germany and enhancing standardization and interoperability with U.S. forces.

Holloman AFB is the only location where the German Air Force trains aircrews in Tornado aircraft operations and tactics. These operations began at U.S. Air Force facilities in 1989.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

There is no prime contractor involved in this program. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any U.S. Government or contractor representatives to Germany.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. E8–17048 Filed 7–25–08; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 08–53]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 08–53 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: July 18, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

JUL 09 2008

In reply refer to:
USP003995-08

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 08-53, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Qatar for defense articles and services estimated to cost $400 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Same ltr to:

House	Senate
Committee on Foreign Affairs	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 08-53

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Qatar

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$400 million
TOTAL	$400 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: logistics support and training for two (2) C-17 Globemaster III aircraft being procured through a Direct Commercial Sale, spare and repair parts, support equipment, publications and technical data, flight engineer training, communications equipment, maintenance, personnel training and training equipment, U.S. Government and contractor engineering and logistics support services, preparation of aircraft for shipment, and other related elements of logistics support.

(iv) Military Department: Air Force (QAB)

(v) Prior Related Cases, if any: none

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: see Annex attached

(viii) Date Report Delivered to Congress: JUL 09 2008

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

Qatar – Logistics Support for C-17 Globemaster Aircraft

The Government of Qatar has requested a possible sale of logistics support and training for two (2) C-17 Globemaster III aircraft being procured through a Direct Commercial Sale, spare and repair parts, support equipment, publications and technical data, flight engineer training, communications equipment, maintenance, personnel training and training equipment, U.S. Government and contractor engineering and logistics support services, preparation of aircraft for shipment, and other related elements of logistics support. The estimated cost is $400 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country that has been, and continues to be, an important force for political stability and economic progress in the Middle East.

The proposed sale will provide Qatar the ability to fully operate and maintain the C-17s, giving them the capability to transport equipment and troops in the region, as well as, participation in humanitarian operations in the Middle East and South Asia regions.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Boeing Company of St. Louis, Missouri. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of up to 10 U.S. Government and contractor representatives to participate in training, and technical reviews for one-week intervals, twice annually.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 08-53

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The AN/ALE-47 Countermeasures Dispenser System (CMDS) is an integrated, threat-adaptive, software-programmable dispensing system capable of dispensing chaff, flares, and active radio frequency expendables. The threats countered by the CMDS include radar-directed anti-aircraft artillery, radar command-guided missiles, radar homing guided missiles, and infrared guided missiles. The system is internally mounted and may be operated as a stand-alone system or may be integrated with other on-board electronic warfare and avionics systems. CMDS uses threat data received over the aircraft interfaces to assess the threat situation and to determine a response. Expendable routines tailored to the immediate aircraft and threat environment may be dispensed using one of four operational modes. The hardware is Unclassified. The software is classified Secret. Technical data and documentation to be provided is Unclassified.

2. The AN/AAR-47 missile warning system is a small, lightweight, passive, electro-optic, threat warning device used to detect surface-to-air missiles fired at helicopters and low-flying fixed-wing aircraft and automatically provide countermeasures, as well as, audio and visual-sector warning messages to the aircrew. The basic system consists of multiple Optical Sensor Converter (OSC) units, a Computer Processor (CP) and a Control Indicator (CI). The set of OSC units, which normally consist of four, is mounted on the aircraft exterior to provide omnidirectional protection. The OSC detects the rocket plume of missiles and sends appropriate signals to the CP for processing. The CP analyzes the data from each OSC and automatically deploys the appropriate countermeasures. The CP also contains comprehensive BIT circuitry. The CI displays the incoming direction of the threat, so that the pilot can take appropriate action. The hardware is Unclassified. The software is classified Secret. Technical data and documentation to be provided is Unclassified.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures, which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. E8–17049 Filed 7–25–08; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 08–74]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 08–74 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: July 18, 2008.

Patricia Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
2800 DEFENSE PENTAGON
WASHINGTON, DC 20301-2800

JUL 09 2008

In reply refer to:
USP007973-08

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 08-74, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Australia for defense articles and services estimated to cost $700 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Same ltr to:

House	Senate
Committee on Foreign Affairs	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 08-74

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** Australia

(ii) **Total Estimated Value:**

Major Defense Equipment*	$400 million
Other	$300 million
TOTAL	$700 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** AEGIS Combat System and select combat system and communication components consisting of 1 MK41 Vertical Launch System, 1 AN/SPQ-9B Horizon Search Radar, 1 Cooperative Engagement Capability System, 1 Naval Fire Control System, 1 Multi-Functional Information Distribution System, AN/SLQ-25A Nixie Countermeasure Suite, MK160 Gun Computer System with MK 20 Electro-Optical Sight, AIMS MK XII Identification Friend or Foe (IFF) system for the Air Warfare Destroyer platform, communication and information distribution systems, U.S. Government and contractor engineering and logistics personnel services, personnel training and training equipment, support and test equipment, spare and repair parts, publications and technical documentation, and other related elements of logistics support.

(iv) **Military Department:** Navy (LEG)

(v) **Prior Related Cases, if any:**
FMS case LCQ - $489 million - 31Oct05
FMS case LCQ(A01) - $196 million - 04Apr06
FMS case LCQ(A02) - $ 489 million - 31Jul06
FMS case LCQ(A03) - $192 million – pending

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold:** See Annex attached

(viii) **Date Report Delivered to Congress:** JUL 09 2008

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Australia – AEGIS Combat System Components for Air Warfare Destroyer Program

The Government of Australia requested a possible sale of the AEGIS Combat System and select combat system and communication components consisting of 1 MK 41 Vertical Launch System, 1 AN/SPQ-9B Horizon Search Radar, 1 Cooperative Engagement Capability System, 1 Naval Fire Control System, 1 Multi-Functional Information Distribution System, AN/SLQ-25A Nixie Countermeasure Suite, MK160 Gun Computer System with MK 20 Electro-Optical Sight, AIMS MK XII Identification Friend or Foe (IFF) for the Air Warfare Destroyer platform, communication and information distribution systems, U.S. Government and contractor engineering and logistics personnel services, personnel training and training equipment, support and test equipment, spare and repair parts, publications and technical documentation, and other related elements of logistics support. The estimated cost is $700 million.

Australia is one of our most important allies in the Western Pacific. The strategic location of this political and economic power contributes significantly to ensuring peace and economic stability in the region. Australia's efforts in peacekeeping and humanitarian operations in Iraq and in Afghanistan have had a significant impact on regional political and economic stability and have served U.S. national security interests. This proposed sale is consistent with those objectives and facilitates burden-sharing with our allies.

The proposed sale of the AEGIS Combat System and components to Australia will contribute to U.S. security objectives by providing a coalition partner with significantly improved Air Warfare capability. This will improve the Royal Australian Navy's ability to participate in coalition operations, will enhance the lethality of its Air Warfare Destroyer platform, and will provide common logistical support with the U.S. Navy. The Royal Australian Navy can easily integrate the capabilities of the AEGIS Combat System into its concept of operations. Australia will have no difficulty absorbing these systems into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be:

Lockheed Martin Maritime Systems and Sensors (three locations)	Moorestown, New Jersey Eagan, Minnesota Baltimore, Maryland
Raytheon Systems Company (two locations)	St. Petersburg, Florida Sudbury, Massachusetts
Northrop Grumman Corporation	Melville, New York

There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of three contractor representatives in Australia for approximately 6 months during the equipment installations, test and checkout of the AEGIS Combat System.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 08-74

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The AEGIS Combat System provides automated detection, tracking and engagement of threat targets through the AN/SPY-1D(V) radar. It provides automated combat management functions, display, threat prioritization, weapons pairing and scheduling, and maintenance. AEGIS hardware is Unclassified, with the exception of the Radio Frequency oscillator used in the Fire Control transmitter which is classified Confidential. AEGIS documentation to be delivered to Australia is Unclassified with the exception of seven operation and maintenance manuals that are classified Confidential and one Secret supplement to the AEGIS Combat System maintenance manual.

2. The Cooperative Engagement Capability (CEC) is a system that fuses tracking data from shipboard sensors and distributes radar measurement data to other platforms with CEC capability. This data is filtered and combined to create a common tactical picture, based on available sensor data from all platforms netted through the CEC system. The hardware is Unclassified with the exception of a Communications Security (COMSEC) card which is classified Secret. The software and documentation is classified Secret.

3. The Multi-Functional Information Distribution System (MIDS) Terminal is a secure data and voice communication network using the Link 16 architecture. The system provides enhanced situational awareness, positive identification of participants within the network, secure connectivity and secure voice capability. The MIDS Terminal is classified Confidential. The MIDS software and documentation are Unclassified. MIDS has been previously purchased by Australia and the appropriate safeguards are in place to accept delivery and integrate it into the Air Warfare Destroyer.

4. The AN/SPQ-9B radar is a high resolution, three dimensional, rotating phased array, X-band narrow beam radar, providing both air and surface tracking data. The radar will become a component of the AEGIS Combat System on the Australia Air Warfare Destroyer, to serve as a complement to the AEGIS SPY-1D (V) radar, providing additional capability to detect and engage surface and low altitude air targets. The AN/SPQ-9B Radar hardware and documentation is Unclassified. The software is classified Secret.

5. The Naval Fire Control System (NFCS) is an automated mission planning system for Naval surface fire support, designed to coordinate and execute fire support weapons engagements. NFCS receives targeting data, generates a coordinated land tactical picture, and prepares fire plans. The NFCS hardware, software, and documentation are Unclassified.

6. All manuals and technical documentation disclosure will be limited to those necessary for operational use and organizational maintenance. No special tooling and/or manufacturing equipment will be sold in connection with this sale.

7. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. E8–17050 Filed 7–25–08; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 08–69]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 08–69 with attached transmittal, and policy justification.

Dated: July 18, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
2800 DEFENSE PENTAGON
WASHINGTON, DC 20301-2800

JUL 1 1 2008
In reply refer to:
USP007483-08

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515-6501

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 08-69, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Israel for defense articles and services estimated to cost $1.3 billion. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard J. Millies
Deputy Director

Enclosures:
1. **Transmittal**
2. **Policy Justification**

Same ltr to:

House	Senate
Committee on Foreign Affairs	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 08-69

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** Israel

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 0 billion
Other	$1.3 billion
TOTAL	$1.3 billion

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** 28,000,000 gallons of unleaded gasoline, 186,000,000 gallons of JP-8 aviation jet fuel, and 54,000,000 gallons of diesel fuel

(iv) **Military Department:** Army (ZKB, ZKC, and ZKD)

(v) **Prior Related Cases, if any:** numerous cases dating back to 1995

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** None.

(viii) **Date Report Delivered to Congress:**

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Israel – Unleaded Gasoline, JP-8 Aviation Jet Fuel, and Diesel Fuel

The Government of Israel has requested a possible sale of 28,000,000 gallons of unleaded gasoline, 186,000,000 gallons of JP-8 aviation jet fuel, and 54,000,000 gallons of diesel fuel. The estimated cost is $1.3 billion.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been, and continues to be, an important force for political stability and economic progress in the Middle East.

The proposed sale of the JP-8 aviation fuel will enable Israel to maintain the operational capability of its aircraft inventory. The unleaded gasoline and diesel fuel will be used for ground forces' vehicles and other equipment used in keeping peace and security in the region. Israel will have no difficulty absorbing this additional fuel into its armed forces.

The proposed sale of these three types of fuel will not affect the basic military balance in the region.

The vendors are unknown at this time due to the competitive bid process for the supply source(s). There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Israel.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. E8–17051 Filed 7–25–08; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for the Final Environmental Impact Statement for the Shock Trial of USS MESA VERDE (LPD 19)

AGENCY: Department of the Navy, DoD.

ACTION: Notice of Record of Decision.

SUMMARY: The Department of Navy (Navy), pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, 42 United States Code (U.S.C.) 4321 *et seq.*; the regulations implementing NEPA issued by the Council on Environmental Quality (CEQ), 40 Code of Federal Regulations (CFR) Parts 1500–1508; Navy regulations implementing NEPA procedures (31 CFR 775); and Presidential Executive Order 12114, hereby announces its decision to conduct a shock trial for USS MESA VERDE in the area of the Atlantic Ocean offshore of Naval Station Mayport, Jacksonville, Florida during the summer 2008 (June 21–September 20).

NEPA establishes the procedures Federal agencies must follow in analyzing environmental impacts of major Federal actions within the United States (U.S.) and its territories. Presidential Executive Order 12114 establishes the procedures Federal agencies must follow when environmental impacts of major Federal actions occur outside the U.S. or its territories including the global commons. The Navy is the lead agency for the proposed action with cooperation from the National Marine Fisheries Service (NMFS), who agreed to be a cooperating agency for the Environmental Impact Statement.

USS MESA VERDE will undergo a shock trial in a manner consistent with the proposed action ''Alternative Offshore Shock Trial Locations'' as described in the Final Environmental Impact Statement (EIS). The Final EIS analyzed in detail three alternative offshore areas (Norfolk, Virginia; Mayport, Florida; and Pensacola, Florida) during all four seasons. The No-action alternative was also analyzed in the Final EIS.

The preferred alternative is to conduct a shock trial offshore of Mayport implementing protective measures (also referred to as mitigation measures) to

minimize risk to marine mammals and sea turtles. Although all three test areas meet minimal operational requirements, there is considerable variability between the locations in terms of marine species presence and status (e.g., threatened or endangered), as well as differences with respect to potential impacts to species (i.e., mortality, injury, and acoustic harassment). USS MESA VERDE will be subjected to a series of up to four 10,000-pound explosive charge detonations sometime between June 21, 2008 and September 20, 2008, conducted at a rate of one per week to allow time to perform detailed inspections of the ship's systems. Potential risk of impacts to marine mammals and sea turtles in summer is highest offshore of Norfolk and Pensacola and lowest offshore of Mayport. The Norfolk and Mayport locations are not considered environmentally acceptable during October through April due to the migratory patterns and presence (abundance) of the North Atlantic right whale. Endangered marine species are not likely to be adversely affected by the preferred alternative to conduct the proposed shock trial offshore of Mayport in the summer. All other aspects of the three test areas are similar. Based on the Navy's overseas deployment requirements for the ship class and, in particular, the availability of the ship, conducting the shock trial offshore of Mayport will meet the project purpose and need, satisfy operational requirements, and minimize environmental impacts.

This Record of Decision leaves the selection of primary and secondary test sites within the Mayport test area to be made based on pre-detonation aerial surveys for marine mammal and sea turtle presence. This will ensure that the final test site selected for the shock trial poses the least possible risk to the marine environment.

FOR FURTHER INFORMATION CONTACT: Ms. Dawn Schroeder, NAVSEA 04RE, 1333 Isaac Hull Ave., SE., Building 197, Room 4W1673, Washington Navy Yard, DC 20376, telephone: 202–781–2291, and e-mail: *dawn.schroeder@navy.mil*.

SUPPLEMENTARY INFORMATION: The SAN ANTONIO Class ship designated as the shock ship for the proposed shock trial is USS MESA VERDE (LPD 19). USS MESA VERDE is the third ship in the SAN ANTONIO Class of nine planned amphibious transport dock ships being acquired by the Navy to meet the Marine Expeditionary Brigade (MEB) amphibious lift requirements. Each new class (or major upgrade) of surface ships must be tested to assess the survivability of the hull and ship's systems and the capability of the ship to protect the crew after a near miss from an underwater explosion. Section 2366 of Title 10, United States Code (10 U.S.C. 2366) requires realistic survivability testing of a covered weapon system to ensure the vulnerability of that system under combat conditions is known. Realistic survivability testing involves firing munitions likely to be encountered in combat to test for ship vulnerability, commonly referred to as ''Live Fire Test and Evaluation'' (LFT&E). The SAN ANTONIO Class is considered a covered system with an approved LFT&E program. The LFT&E program includes three major areas (computer modeling, surrogate testing, and an at-sea ship shock trial) that together provide for a complete and comprehensive evaluation of the survivability of the SAN ANTONIO Class. Only the at-sea shock trial would provide the real-time data necessary to fully assess ship survivability. The shock trial is a series of underwater detonations that propagate a shock wave through the ship's hull under deliberate and controlled conditions simulating near misses from underwater explosions. The Navy can measure the effect of the shock wave on the hull, equipment, and personnel safety features of the ship. The shock trial is designed to demonstrate that all ship systems are capable of sustained operation performance during combat situations. This information is used to improve the shock resistance of the ship and follow-on ships of the class, thereby reducing the risk of crew injury.

Alternatives: NEPA requires the Navy to evaluate a reasonable range of alternatives for implementing a proposed Federal action. The Final EIS analyzed in detail three alternative offshore areas (Norfolk, Virginia; Mayport, Florida; and Pensacola, Florida) during all four seasons. The No-action alternative was also analyzed in the Final EIS.

Under the No-action alternative, only computer modeling and component testing already completed under the LFT&E were used to evaluate survivability. The No-action alternative was determined to not be a reasonable alternative because it would not provide the information and data necessary to assess the survivability of the ship, as required by 10 U.S.C. 2366. However, the No-action alternative was included in the comparative analysis of alternatives.

Alternative offshore locations for conducting the shock trial were compared from both an operational and environmental perspective. To carry out its national security mission, the Navy operates under stringent scheduling and operational constraints to ready its frontline combat ships for overseas deployment. Since USS MESA VERDE must be prepared to commence its first deployment during Fiscal Year (FY) 2009, a number of key maintenance and training events, as well as other certification tests and trials, must occur in proper sequence to ensure suitable preparations for overseas movement. Accordingly, the availability of USS MESA VERDE would dictate the time of year when the shock trial would be performed. Currently, USS MESA VERDE is scheduled to be available for shock trial testing in the summer of 2008. Based on the availability of USS MESA VERDE during summer 2008, the best operational and environmental alternative is Mayport. This alternative is the Navy's preferred alternative. Of the three location alternatives, Mayport in summer is the environmentally preferred alternative.

The Final EIS analysis focused on identifying alternative offshore locations to conduct the shock trial. USS MESA VERDE is proposed to be homeported on the East coast of the U.S. Therefore, based on operational requirements and personnel quality of life considerations, offshore areas other than East and Gulf coasts were eliminated from consideration. The Navy screened possible East coast and Gulf of Mexico locations according to the following operational criteria: personnel quality of life considerations, water depth, proximity to a Navy facility with homeported vessels or sufficient pier space for support vessels, proximity to an airfield for supporting aircraft, proximity to a Naval Station support facility, proximity to a vessel repair facility, proximity to an ordnance storage/loading station, vessel traffic, weather and sea state, and Gulf Stream conditions. A detailed analysis concluded that three test areas could operationally support the shock trial—Mayport, Florida; Norfolk, Virginia; and Pensacola, Florida. Although all three test areas meet minimal operational requirements, there is considerable variability between the locations in terms of marine species presence and status (e.g., threatened or endangered), as well as differences with respect to potential impacts to species (i.e., mortality, injury, and acoustic harassment).

Potential environmental impacts of conducting a shock trial at the three test areas were analyzed in the Environmental Consequences section of the Final EIS. The test areas differ significantly with respect to potential

impacts on marine mammals and sea turtles. Overall, based on the best available scientific data, the risk of mortality, injury, and harassment to marine mammals is lowest at Mayport in summer than at Norfolk or Pensacola. Impacts to sea turtles during the summer would be lowest at Pensacola and Mayport, and highest at Norfolk. Considering all components of the physical, biological, and socioeconomic environment, potential impacts would be less at Mayport than at Norfolk or Pensacola.

Environmental Impacts: Potential environmental impacts of conducting a shock trial at the Mayport, Norfolk, and Pensacola test areas were analyzed in the Final EIS. The analysis demonstrated that most environmental impacts of the shock trial would be less than significant and were similar at Mayport, Norfolk or Pensacola, with the exception of potential impacts on marine mammals and sea turtles.

Potentially significant direct impacts on marine mammals from the pressure wave or sound impulse created by the detonation include mortality, injury, and acoustic harassment. Most marine mammals would be detected during pre-detonation aerial surveys and surface ship observations, which would minimize the risk of death or injury. Application of protective (mitigation) measures would further reduce risk by allowing selection of a test site with low densities of marine mammals within the test area. Even with these protective (mitigation) measures, there are differences in risk levels among the three test areas due to area-wide marine mammal densities and species composition, as well as seasonal differences. Overall, the risk to marine mammals would be higher at Norfolk and Pensacola, than at Mayport in the summer season.

Potential impacts to sea turtles also include mortality, injury, and acoustic harassment. At Mayport, Norfolk or Pensacola, protective (mitigation) measures would result in selection of a test site with low densities of sea turtles. However, there are differences in risk among the three test areas attributable to seasonal differences in sea turtle densities. Overall, modeling results indicate that the risk to sea turtles would be highest at Norfolk, lower at Mayport, and lowest at Pensacola during the summer season.

Considering all components of the physical, biological, and socioeconomic environment, potential impacts would be less at Mayport than at Norfolk and Pensacola.

Protective (Mitigation) Measures: A detailed Marine Mammal and Sea Turtle Protective Measures Plan is presented in the Final EIS. The plan includes similar protective (mitigation) measures as used during the 2001 shock trial of USS WINSTON S. CHURCHILL offshore of Mayport, Florida. No deaths or injuries of marine mammals or sea turtles were detected during the USS WINSTON S. CHURCHILL shock trial. The protective measures plan for USS MESA VERDE shock trial would avoid impacts and minimize risk to marine mammals and sea turtles in the following ways:

Site Selection—Initial, general site selection would be based on operational requirements and aerial surveys. Within the shock trial test area, aerial surveys would be conducted and satellite imagery would be analyzed to select a primary and secondary test site having low densities of marine mammals and sea turtles.

Pre-Detonation Monitoring—Prior to each detonation, aerial and shipboard observers would search for marine mammals and sea turtles at the selected test site. If any marine mammal or sea turtle were detected within the Safety Range (3.5 nautical mile [nm] radius around the detonation point), the detonation would be postponed. The detonation would also be postponed if large *Sargassum* rafts, debris lines or jellyfish concentrations (sea turtle indicators) were detected within the Safety Range, or if flocks of seabirds or large fish schools were detected within 1 nm of the detonation point. Detonation would not occur until monitoring indicated that the Safety Range is clear of detectable marine mammals, sea turtles, large *Sargassum* rafts and debris lines, large concentrations of jellyfish, flocks of seabirds, and large schools of fish.

Post-Detonation Monitoring—After each detonation, aerial and shipboard observers would survey the test site. A Marine Animal Response Team (MART) led by a marine mammal veterinarian would document and attempt to recover any dead animals and monitor any animals that appear to be injured. If the survey showed that marine mammals or sea turtles were killed or injured, or if any marine mammals or sea turtles are detected in the Safety Range immediately following a detonation, testing would be halted until procedures for subsequent detonations could be reviewed and changed as necessary. Communications with NMFS stranding network personnel would be maintained throughout the shock trial period.

Coordination and Consultation with NMFS: Because NMFS has jurisdiction by law with respect to issues related to endangered species and marine mammals, NMFS is a cooperating agency on the Final EIS. In addition to a review and comment role, NMFS has two regulatory roles relative to the proposed shock trial. First, NMFS is responsible for administering the Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*) as it applies to listed sea turtles and marine mammals. Early Section 7 formal consultation under the ESA was initiated with NMFS in June 2007. NMFS issued a Final Biological Opinion, dated July 18, 2008, which concluded that the shock trial of the USS MESA VERDE off the coast of Jacksonville, Florida in summer would not likely jeopardize the continued existence of threatened or endangered species, pursuant to the following terms and conditions:

1. The Navy shall implement their proposed protective measures associated with each underwater detonation required by the proposed ship shock trial of the MESA VERDE. These protective measures are summarized in this Record of Decision [Protective (Mitigation) Measures section].

2. Within 120 calendar days of completing the proposed ship shock trial of the USS MESA VERDE, the Navy shall provide the Chief, Endangered Species Division, Office of Protected Resources (with a copy provided to the Assistant Regional Administrator for Protected Resources in NMFS' Southeast Regional Office located in St. Petersburg, Florida) with a written after-action report that shall include the following information:

a. A daily log of the ship shock trial and its associated detonations including descriptions of all protective measures the Navy employed during the trial;

b. Identification of the manpower required to implement the planned protective measures (e.g., number of persons involved in aerial and/or shipboard surveillance efforts);

c. A calculation of the time required on station to complete the proposed shock trial and pre- and post-detonation monitoring activities (i.e., days, hours, minutes);

d. A brief summary of the results, including the effectiveness of the protective measures and observations made (e.g., number of marine animals sighted, behavioral observations);

e. An outline of any adjustments/changes to the protective measures plan implemented during the proposed shock trial (e.g., postponing the exercise due to marine animal sightings within the Safety Range); and

f. A description of any constraints on the proposed shock trial, if any, including time, manpower, funding or other environmental compliance factor.

The biological opinion includes an incidental take statement that exempts the Navy from the prohibitions contained in section 9 of the ESA during the ship shock trial of the USS MESA VERDE. Receipt of the final biological opinion completed the ESA consultation process.

Secondly, NMFS has a regulatory role under the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*). The Navy submitted a request to NMFS for an ''incidental take authorization'' under section 101(a)(5)(A) of the MMPA. NMFS published a Proposed Rule in the **Federal Register** on April 11, 2008 (73 FR 71 [19789–19795]) specifying protective measures and reporting requirements for the shock trial. A Final Rule was signed by NMFS on July 18, 2008, which became effective upon its submission by NMFS to the **Federal Register** for publication, and the Letter of Authorization (LOA) for the test was issued on July 22, 2008. Based on the scientific analyses detailed in the Navy's application and further supported by information and data contained in the Navy's Final EIS for the USS MESA VERDE shock trial, NMFS has determined that the incidental taking of marine mammals resulting from conducting an FSST on USS MESA VERDE in the waters offshore of Mayport, Florida during the summer months would have a negligible impact on the affected marine mammal species or stocks. The Final Rule states that NMFS concurs with the Navy, as provided in its request for incidental take authorization and the Final EIS, that impacts from the shock trial can be mitigated by implementing the protective measures as described in the Final EIS and summarized in this Record of Decision [Protective (Mitigation) Measures section] which mandate a conservative safety range for marine mammal exclusion, incorporating aerial and shipboard monitoring efforts in the program both prior to and after detonation of explosives, and provided detonations are not conducted whenever marine mammals are either detected within the 3.5-nm (6.5-km) Safety Range (or may enter the Safety Range at the time of detonation), or if weather and sea conditions preclude adequate aerial surveillance. With issuance of the Final Rule, NMFS has determined that the requirements of section 101(a)(5)(A) of the MMPA have been met.

Comments Received on the Final EIS: After the Final EIS was distributed to the public for a 30-day review period ending on June 30, 2008, the Navy received three comments: one from the Virginia Department of Environmental Quality, one from U.S. Environmental Protection Agency (EPA) Region 4, and one from Georgia Department of Natural Resources (DNR) Coastal Resources Division. The Virginia Department of Environmental Quality recommended that the shock trial test be conducted at the Mayport location. Conducting the shock trial at this offshore location is identified as the preferred alternative. EPA Region 4 recommended the distribution of post-test monitoring results to federal and state natural resource agencies for review and analysis to assess the success of the proposed protective (mitigation) measures. The regulator of the resources addressed in the Final EIS is NMFS. Therefore, the Navy will adhere to the terms and conditions in the MMPA Final Rule and LOA provided to the Navy by NMFS. In accordance with the Final EIS and the LOA, the Navy will conduct an after action report which will include a summary of post-test monitoring results. The report will be provided to NMFS as required by the LOA. The Georgia DNR concurred with the findings in the Final EIS.

Conclusion: After careful consideration of the purpose and need for the proposed action, the analysis contained in the Final EIS, and the comments received from federal, state, and local agencies, non-governmental organizations, and individual members of the public, the Principal Deputy Assistant Secretary of the Navy for Research, Development, and Acquisition, on behalf of the Navy has decided to proceed with the Preferred Alternative. Conducting USS MESA VERDE shock trial in an area offshore of Mayport, Florida is the alternative that best meets the project purpose and need, satisfies operational criteria, and minimizes environmental impacts. Potentially significant direct impacts resulting from the shock trial include mortality, injury, and disruption of hearing-based behavior (harassment) of marine mammals and sea turtles. While modeling has been conducted to define the potential lethal, injurious, and harassment takes that might occur, it is expected that implementation of protective (mitigation) measures will minimize the risk to marine mammals and sea turtles.

Consistent with this decision and the Proposed Action and analyses described in the Final EIS at the test location and season identified in the Preferred Alternative, the Navy will implement the Preferred Alternative and all protective (mitigation) measures.

Dated: July 22, 2008.

David Architzel,

Vice Admiral, U.S. Navy, Principal Deputy Assistant Secretary of the Navy (Research, Development & Acquisition).

[FR Doc. E8–17242 Filed 7–25–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Shepherds Flat Wind Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Availability of Record of Decision (ROD).

SUMMARY: The Bonneville Power Administration (BPA) has decided to offer contract terms for the electrical interconnection into the Federal Columbia River Transmission System (FCRTS) of up to 846 megawatts of power to be generated by the proposed Shepherds Flat Wind Project (Wind Project). Caithness Shepherds Flat LLC proposes to construct and operate the proposed Wind Project in Gilliam and Morrow Counties, Oregon, and has requested interconnection to the FCRTS at BPA's Slatt Substation in Gilliam County, Oregon. BPA will construct a new 230-kV yard at the Slatt Substation to accommodate this additional power in the FCRTS. This decision to interconnect the Wind Project is consistent with and tiered to BPA's Business Plan Final Environmental Impact Statement (DOE/EIS–0183, June 1995), and Business Plan ROD (August 1995).

ADDRESSES: Copies of this tiered ROD and the Business Plan EIS and ROD may be obtained by calling BPA's toll-free document request line, 1–800–622–4520. The RODs and EIS are also available on our Web site, *http://www.efw.bpa.gov*.

FOR FURTHER INFORMATION, CONTACT: Doug Corkran, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone number: 1–800–622–4519; fax number: 503–230–5699; or e-mail: *dfcorkran@bpa.gov*.

Issued in Portland, Oregon, on July 18, 2008.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. E8–17241 Filed 7–25–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13162–000]

BPUS Generation Development LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 21, 2008.

On April 2, 2008, BPUS Generation Development LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Sylvan Slough Hydroelectric Project to be located on Sylvan Slough on the Mississippi River in Rock Island County, Illinois. The project would be located near the U.S. Army Corps of Engineers' Mississippi Lock & Dam No. 15 and would occupy federal lands under the jurisdiction of the U.S. Army, Rock Island Arsenal Garrison.

The proposed project would consist of: (1) A new 200-foot long, 120-foot wide, 60-foot high powerhouse; (2) three turbine/generator units with a total installed capacity of 7.5 megawatts; (3) a transmission line; and (4) appurtenant facilities. The project is estimated to have an annual generation of 40 gigawatt-hours, which would be sold to a local utility.

Applicant Contact: David W. Culligan, BPUS Generation Development LLC, 225 Greenfield Parkway, Suite 201, Liverpool, NY 13088; Phone: 315–413–2821. *FERC Contact:* Henry Woo, 202–502–8872.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13162) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17150 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13222–000]

Delaware County Electric Cooperative; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 21, 2008.

On May 9, 2008, Delaware County Electric Cooperative filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Catskills Hydro Project, which comprises four development sites, Schoharie Cannonsville, Pepacton and Neversink, located on the Schoharie Creek, West Branch Delaware River, East Branch Delaware River, and the Neversink River, in Schoharie, Delaware and Sullivan Counties, New York.

The proposed project would consist of the following developments:

Schoharie Development

(1) An existing 2,273-feet-long, 183-feet-high earthen Gilboa Dam; (2) an existing reservoir having a surface area of 1,150 acres and a storage capacity of 95,575 acre-feet and normal water surface elevation of 1,130 feet mean sea level; (3) four penstocks; (4) a powerhouse containing four new generating units having an installed capacity of 23.5-megawatts; (5) a tailrace; (6) a proposed 13,000-feet-long, 34.5-kilovolt transmission line; and (7) appurtenant facilities. The proposed Schoharie Development would have an average annual generation of 23.9 gigawatt-hours.

Cannonsville Development

(1) An existing 2,800-feet-long, 175-feet-high earthen Cannonsville Dam; (2) an existing reservoir having a surface area of 4,800 acres and a storage capacity of 300,000 acre-feet and normal water surface elevation of 1,150 feet mean sea level; (3) four proposed penstocks; (4) a proposed powerhouse containing four new generating units having an installed capacity of 20.5-megawatts; (5) a proposed tailrace; (6) an existing 100-feet-long, 46-kilovolt transmission line; and (7) appurtenant facilities. The proposed Cannonsville Development would have an average annual generation of 46.5 gigawatt-hours.

Pepacton Development

(1) An existing 2,450-feet-long, 254-feet-high earthen Downsville Dam; (2) an existing reservoir having a surface area of 6,400 acres and a storage capacity of 430,000 acre-feet and normal water surface elevation of 1,280 feet mean sea level; (3) two proposed penstocks; (4) a proposed powerhouse containing two new generating units having an installed capacity of 12.5-megawatts; (5) a proposed tailrace; (6) an existing 800-feet-long, 46-kilovolt transmission line; and (7) appurtenant facilities. The proposed Pepacton Development would have an average annual generation of 16.7 gigawatt-hours.

Neversink Development

(1) An existing 600-feet-long, 254-feet-high earthen Neversink Dam; (2) an existing reservoir having a surface area of 1,500 acres and a storage capacity of 107,000 acre-feet and normal water surface elevation of 1,440 feet mean sea level; (3) a proposed penstock; (4) a proposed powerhouse containing one new generating unit having an installed capacity of 6.5-megawatts; (5) a proposed tailrace; (6) an existing 300-feet-long, 13.8-kilovolt transmission line; and (7) appurtenant facilities. The proposed Neversink Development would have an average annual generation of 4 gigawatt-hours.

Applicant Contact: Gregory J. Starheim, CEO and General Manager, Delaware County Electric Cooperative, 39 Elm Street, P.O. Box 471, Delhi, NY 13753; *phone:* (607) 746–9281.

FERC Contact: Patricia W. Gillis, 202–502–8735.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First

Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13222) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17155 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13133–000]

Division Canyon Hydro, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 21, 2008.

On February 25, 2008, Division Canyon Hydro, LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Division Canyon Pump Storage Hydroelectric Project, located on the Division Canyon, in Elko County, Nevada.

The proposed pumped storage project would consist of: (1) A lower gravity dam 180 feet in height, with a crest length of 810 feet, and a hydraulic head of 160 feet, and an upper gravity dam 260 feet in height, with a crest length of 1,800 feet and a hydraulic head of 240 feet, (2) a proposed upper reservoir having a surface area of 75 acres, with a storage capacity of 4,400 acre-feet and a normal water surface elevation of 7,200 feet mean sea level (msl), (3) a proposed lower reservoir having a surface area of 150 acres, with storage capacity of 6,500 acre-feet and normal water surface elevation of 6,000 feet msl, (4) a 228-inch-diameter steel penstock approximately 16,200 feet long, (5) a proposed powerhouse containing six generating units having a total installed capacity of 500 megawatts, (6) a switchyard, (7) a 115 kV transmission line approximately 25.4 miles in length, and (8) appurtenant facilities. The proposed project would generate approximately 1,480 gigawatt hours annually, which would be sold to a local utility.

Applicant Contact: Mr. Daniel K. Dygert, COO, Carrus Land Systems, LLC, 1047 S. 100 W., Ste. 210, Logan, UT 84321, (435) 787–2211, and Mr. Brent L. Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745–0834.

FERC Contact: Kelly Houff, 202–502–6393.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13133) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17148 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13132–000]

Hoppie Canyon Hydro, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 21, 2008.

On February 25, 2008, Hoppie Canyon Hydro, LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Hoppie Canyon Pump Storage Hydroelectric Project, located on the Hoppie Creek, in Elko County, Nevada.

The proposed pumped storage project would consist of: (1) A lower gravity dam 180 feet in height, with a crest length of 1,050 feet, and a hydraulic head of 160 feet, and an upper gravity dam 220 feet in height, with a crest length of 1,600 feet and a hydraulic head of 200 feet, (2) a proposed upper reservoir having a surface area of 90 acres, with a storage capacity of 6,000 acre-feet and a normal water surface elevation of 7,100 feet mean sea level (msl), (3) a proposed lower reservoir having a surface area of 80 acres, with storage capacity of 4,650 acre-feet and normal water surface elevation of 6,300 feet msl, (4) a 240-inch-diameter steel penstock approximately 8,770 feet long, (5) a proposed powerhouse containing five generating units having a total installed capacity of 380 megawatts, (6) a switchyard, (7) a 115 kV transmission line approximately 14.7 miles in length, and (8) appurtenant facilities. The proposed project would generate approximately 1,100 gigawatt hours annually, which would be sold to a local utility.

Applicant Contact: Mr. Daniel K. Dygert, COO, Carrus Land Systems, LLC, 1047 S. 100 W., Ste. 210, Logan, UT 84321, (435) 787–2211, and Mr. Brent L. Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745–0834.

FERC Contact: Kelly Houff, 202–502–6393.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13132) in the docket number field to access the document. For

assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17147 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13209–000]

Kenai Hydro, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

July 21, 2008.

On April 28, 2008, Kenai Hydro, LLC filed an application, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Crescent Lake Project to be located on Crescent Lake in Kenai Peninsula Borough, Alaska. The project would occupy federal lands managed by the U.S. Forest Service.

The proposed project would most likely consist of: (1) An earth fill, concrete faced gravity dam between 5 and 10 feet high and 200 feet wide; (2) a reservoir with an approximate surface elevation of 1,500 feet MSL, an approximate surface area of 2,040 acres, and a storage capacity of 20,400 acre feet; (3) a 3 foot diameter, 3 mile long penstock constructed of high density polyethylene and/or steel; (4) a powerhouse containing one turbine-generator unit with a total installed capacity of about 8.2 MW; (5) a 1–2 mile long, 115kV transmission line and; (6) appurtenant facilities. The annual production would be 28.7 GWh which would be sold to a local utility.

Applicant Contact: Steve Gilbert, 6921 Howard Avenue, Anchorage, AK 99504, (907) 333–0810.

FERC Contact: Steven Sachs (202) 502–8666.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice.

Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13209) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17151 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13210–000]

Kenai Hydro, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

July 21, 2008.

On April 28, 2008, Kenai Hydro, LLC filed an application, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Ptarmigan Lake Project to be located on Ptarmigan Lake and Creek in Kenai Peninsula Borough, Alaska. The project would occupy federal lands managed by the U.S. Forest Service.

The proposed project would most likely consist of: (1) An earth fill, concrete faced gravity dam 10 feet high and 100 feet wide; (2) a reservoir with an approximate surface elevation of 800 feet MSL, an approximate surface area of 815 acres, and a storage capacity of 8,150 acre feet; (3) a 5-foot diameter, 3-mile-long penstock constructed of high density polyethylene and/or steel; (4) a powerhouse containing one turbine-generator unit with a total installed capacity of about 4 MW; (5) a 2–4 mile long, 115kV transmission line; and (6) appurtenant facilities. The annual production would be 14 GWh which would be sold to a local utility.

Applicant Contact: Steve Gilbert, 6921 Howard Avenue, Anchorage, AK 99504, (907) 333–0810.

FERC Contact: Steven Sachs, (202) 502–8666.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice.

Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13210) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17152 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13211–000]

Kenai Hydro, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

July 21, 2008.

On April 28, 2008, Kenai Hydro, LLC filed an application, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Falls Creek Project to be located on Falls Creek in Kenai Peninsula Borough, Alaska. The project would occupy federal lands managed by the U.S. Forest Service.

The proposed project would most likely consist of: (1) A concrete diversion dam/intake structure located in Falls Creek; (2) a 2.5–3 mile steel lined penstock; (3) a powerhouse containing one turbine generator unit with a total installed capacity of about 5 MW; (4) a 2–4 mile, 115kV transmission line and; (5) appurtenant facilities. The annual production would

be 17.5 GWh which would be sold to a local utility.

Applicant Contact: Steve Gilbert, 6921 Howard Avenue, Anchorage, AK 99504, (907) 333–0810.

FERC Contact: Steven Sachs, (202) 502–8666.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice.

Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13211) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17153 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13212–000]

Kenai Hydro, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

July 21, 2008.

On April 28, 2008, Kenai Hydro, LLC filed an application, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Grant Lake Project to be located on Grant Lake and Creek in Kenai Peninsula Borough, Alaska. The project would occupy federal lands managed by the U.S. Forest Service.

The proposed project would most likely consist of: (1) An earth fill, concrete faced gravity dam 10 feet high and 200 feet wide; (2) a reservoir with an approximate surface elevation of 800 feet MSL, an approximate surface area of 1,888 acres, and a storage capacity of 37,760 acre feet; (3) a 5 foot diameter, 1 mile long penstock constructed of high density polyethylene or steel; (4) a powerhouse containing one turbine-generator unit with a total installed capacity of about 5 MW; (5) a 1–2 mile long, 115kV transmission line and; (6) appurtenant facilities. The annual production would be 17.5 GWh which would be sold to a local utility.

Applicant Contact: Steve Gilbert, 6921 Howard Avenue, Anchorage, AK 99504, (907) 333–0810.

FERC Contact: Steven Sachs, (202) 502–8666.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice.

Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13212) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17154 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP06–449–002; CP06–451–002]

Kinder Morgan Louisiana Pipeline, LLC; Notice of Application To Amend Certificate

July 17, 2008.

Take notice that on July 11, 2008, Kinder Morgan Louisiana Pipeline, LLC (Kinder Morgan Louisiana) with one of its offices located at 3250 Lacey Road, Suite 700, Downers Grove, IL 60515–7918 filed an Application to amend its certificate authority in Docket Nos. CP06–449, *et al.* Pursuant to this Application to Amend, Kinder Morgan Louisiana seeks authorization of revised initial rates for transportation service on the Kinder Morgan Louisiana facilities due to increased costs. Kinder Morgan Louisiana requests that such amended authorization be granted on an expedited basis by August 22, 2008. [This notice does not constitute concurrence to meet this expedited date.]

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.

Any questions regarding this Application should be directed to Bruce H. Newsome, Vice President of Certificates and Rates, Kinder Morgan Louisiana Pipeline, LLC, 3250 Lacey Road, Suite 700, Downers Grove, IL 60515–7918, telephone: (630) 725–3070, e-mail: *brucenewsome@kindermorgan.com*.

Kinder Morgan Louisiana states that the increased costs are primarily due to substantially higher contractor construction costs than originally anticipated due to an overall increase in the market demand for such services. In addition, since the start of construction, Kinder Morgan Louisiana states costs have increased due to inclement weather and constant high winds resulting in delays in the construction schedule, an increase in fuel costs resulting from the higher market price for fuel combined with increased fuel usage associated with additional barges

and equipment that were required to contend with the wind during construction, and the re-routing of facilities in waterbodies.

Kinder Morgan Louisiana is requesting Commission approval to revise its previously filed firm and interruptible transportation rates for the Kinder Morgan Louisiana system in order to reflect an increase of $76.6 million in the estimated costs to construct its facilities, from $517 million as previously approved by the Commission to $593.6 million. The revised cost of service for Kinder Morgan Louisiana's system results in an increase in the firm reservation rate of $0.36 (from $2.43 per Dth to $2.79 per Dth per month per maximum daily quantity of contract demand). The transportation rate for interruptible service has likewise increased by $0.0118 from $.0799 per Dth to $0.0917 per Dth.

Any person desiring to intervene or to protest this filing must file in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comment Date: 5 p.m. Eastern Time on August 1, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17161 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13131–000]

Loomis Creek Hydro, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 21, 2008.

On February 25, 2008, Loomis Creek Hydro, LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Loomis Creek Pump Storage Hydroelectric Project, located on the Loomis Creek, in Elko County, Nevada.

The proposed pumped storage project would consist of: (1) A lower gravity dam 160 feet in height, with a crest length of 4,800 feet, and a hydraulic head of 140 feet, and an upper gravity dam 200 feet in height, with a crest length of 1,250 feet and a hydraulic head of 180 feet, (2) a proposed upper reservoir having a surface area of 100 acres, with a storage capacity of 5,800 acre-feet and a normal water surface elevation of 7,100 feet mean sea level (msl), (3) a proposed lower reservoir having a surface area of 180 acres, with storage capacity of 7,800 acre-feet and normal water surface elevation of 6,460 feet msl, (4) a 264-inch-diameter steel penstock approximately 11,100 feet long, (5) a proposed powerhouse containing five generating units having a total installed capacity of 370 megawatts, (6) a switchyard, (7) a 115 kV transmission line approximately 9.7 miles in length, and (8) appurtenant facilities. The proposed project would generate approximately 1,093 gigawatt hours annually, which would be sold to a local utility.

Applicant Contact: Mr. Daniel Dygert, COO, Carrus Land Systems, LLC, 1047 S. 100 W., Ste. 210, Logan, UT 84321, (435) 787–2211, and Mr. Brent Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745–0834.

FERC Contact: Kelly Houff, 202–502–6393.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13131) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17146 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13248–000]

Los Angeles Department of Water and Power; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

July 21, 2008.

On June 27, 2008, the Los Angeles Department of Water and Power (LADWP) filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Tinemaha Hydroelectric Project, which would be located near the town of Big Pine on the Owens River at the existing Tinemaha Reservoir in Inyo County, California.

The proposed Tinemaha Hydroelectric Project would include an existing dam owned by the LADWP, and its existing impoundment, Tinemaha Reservoir, which has a surface area of 2,098 acres at an elevation of 3,873.5 feet above mean sea level. The proposed project would also consist of the following new facilities: (1) A 215-foot-long, 8-foot-wide steel penstock, (2) a powerhouse containing one generating unit with a total installed capacity of 1.2 MW, (3) a 1-mile-long, 34.5 kV transmission line, connecting to an existing power line, and (4) appurtenant facilities. The project would have an annual generation of 5 GWh, which would be sold to a local utility.

Applicant Contact: Mr. Randy S. Howard, Director of Resource Planning,

Procurement, and Development, Los Angeles Department of Water and Power, Suite 921, 111 North Hope St., Los Angeles, CA 90012; phone: (213) 367–0381. *FERC Contact:* Tom Papsidero, 202–502–6002.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13248) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17143 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2145–089]

Public Utility District No. 1 of Chelan County, Washington; Notice of Application for Approval of Contract for the Sale of Power for a Period Extending Beyond the Term of the License

July 18, 2008.

Take notice that on July 17, 2008, Public Utility District No. 1 of Chelan County, Washington (Chelan PUD) filed with the Commission an application for approval of a contract for the sale of power from its licensed Rocky Reach Project No. 2145 for a period from June 30, 2011, through October 31, 2028.[1] The Project is located on the Columbia River in Washington.

Section 22 of the Federal Power Act, 16 U.S.C. 815, provides that contracts for the sale and delivery of power for periods extending beyond the termination date of a license may be entered into upon the joint approval of the Commission and the appropriate state public service commission or other similar authority in the state in which the sale or delivery of power is made. Chelan PUD asserts that approval of the submitted contract is in the public interest.

Comments on the request for approval of the power sales contract or motions to intervene may be filed with the Commission no later than August 18, 2008, and replies to comments no later than August 26, 2008. The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

All documents (an original and eight copies) must be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please put the name Rocky Reach, Project No. 2145–089 on the first page of all documents.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov* under the ''e-Filing'' link.

A copy of the application is available for review in the Commission's Public Reference Room or may be viewed on the Commission's Web site *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to these projects or other pending projects. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17177 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

[1] The license for the Rocky Reach Project expired in 2006 and the project is operating under annual license.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13134–000]

Thousand Springs Hydro, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 21, 2008.

On February 25, 2008, Thousand Springs Hydro, LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Thousand Springs Pump Storage Hydroelectric Project, located on the Thousand Springs Creek, in Elko County, Nevada.

The proposed pumped storage project would consist of: (1) An enlargement of the existing gravity dam to 80 feet in height, with a crest length of 650 feet, and a hydraulic head of 60 feet, and an upper gravity dam 220 feet in height, with a crest length of 1,700 feet and a hydraulic head of 200 feet, (2) a proposed upper reservoir having a surface area of 350 acres, with a storage capacity of 11,600 acre-feet and a normal water surface elevation of 5,680 feet mean sea level (msl), (3) a proposed lower reservoir having a surface area of 660 acres, with storage capacity of 10,500 acre-feet and normal water surface elevation of 5,200 feet msl, (4) a 360-inch-diameter steel penstock approximately 7,130 feet long, (5) a proposed powerhouse containing six generating units having a total installed capacity of 470 megawatts, (6) a switchyard, (7) a 115 kV transmission line approximately 21.7 miles in length, and (8) appurtenant facilities. The proposed project would generate approximately 1,370 gigawatt hours annually, which would be sold to a local utility.

Applicant Contact: Mr. Daniel K. Dygert, COO, Carrus Land Systems, LLC, 1047 S. 100 W., Ste. 210, Logan, UT 84321, (435) 787–2211, and Mr. Brent L. Smith, COO, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442, (208) 745–0834.

FERC Contact: Kelly Houff, 202–502–6393.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13134) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17149 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–437–000]

City of Toccoa, GA; Notice of Application

July 21, 2008.

Take notice that on July 11, 2008, the City of Toccoa, Georgia (Toccoa), 203 North Alexander Street, P.O. Box 579, Toccoa, Georgia 30577, filed an abbreviated application pursuant to section 7(f) of the Natural Gas Act (NGA) for a service area determination, a finding that Toccoa qualifies as a local distribution company for purposes of section 311 of the Natural Gas Policy Act (NGPA) and for waiver of the Commission's regulatory requirements, including reporting and accounting requirements ordinarily applicable to natural gas companies under the NGA and NGPA, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any initial questions regarding Toccoa's proposal in this application should be directed to Joshua L. Menter, Miller, Balis & O'Neil, P.C., 1140 19th Street, NW., Washington, DC 20036; *telephone:* (202) 296–2960 or *jmenter@mbolaw.com*.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit the original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comment Date: August 11, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17145 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13244–000]

Whitman River Dam, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

July 21, 2008.

On June 13, 2008, Whitman River Dam, Inc. filed an application, pursuant to section 4(f) of the Federal Power Act,

proposing to develop the hydroelectric potential on Wampanoag Lake located on the Whitman River in the Town of Ashburnham, Worcester County, Massachusetts.

The proposed project would consist of: (1) An earthen dam, 22-foot-high and 660-foot-long, (2) a head pond with storage of 1420.0 acre-feet, (3) one existing 24-inch diameter discharge pipe, and (4) a new powerhouse located in the vicinity of the discharge pipe containing one generating unit having a capacity of 10 kilowatts. The project would have an annual generation of 53,000 kilowatt hours and it is likely that generation will interface with the electric local distribution circuit.

Applicant Contact: Mr. Robert Francis, President, Whitman River Dam, Inc., P.O. Box 145, 10 Tommy Francis Road, Westminster, MA 01473. *FERC Contact:* Shameek Patel, 202–502–6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13244) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17156 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

July 18, 2008.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–111–000.

Applicants: Franklin Resources, Inc.

Description: Request for Blanket Authorizations to Acquire Securities Under section 203(a)(2) of the Federal Power Act for Franklin Resources, Inc.

Filed Date: 07/16/2008.

Accession Number: 20080716–5009.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 6, 2008.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG08–79–000.

Applicants: NaturEner Glacier Wind Energy 1, LLC.

Description: Self Certification Notice of Naturener Glacier Wind Energy 1, LLC.

Filed Date: 07/15/2008.

Accession Number: 20080715–5099.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 5, 2008.

Docket Numbers: EG08–80–000.

Applicants: Naturener Montana Wind Energy, LLC.

Description: Self Certification Notice of Naturener Montana Wind Energy, LLC.

Filed Date: 07/15/2008.

Accession Number: 20080715–5100.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 5, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER01–2508–004.

Applicants: ENMAX Energy Marketing, Inc.

Description: ENMAX Energy Marketing, Inc. reports changes in status that reflect a departure from the facts relied upon in the grant of market-based rate authority.

Filed Date: 07/16/2008.

Accession Number: 20080718–0199.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 6, 2008.

Docket Numbers: ER08–884–001; ER08–913–001.

Applicants: Midwest Independent Transmission System, Inc.; Independent Transmission System Operator.

Description: Midwest Independent Transmission System Operator, Inc. *et al.* submits proposed Appendix H of the Congestion Management Process of their Joint Operating Agreements in compliance with FERC's July 1 Order.

Filed Date: 07/16/2008.

Accession Number: 20080718–0196.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 6, 2008.

Docket Numbers: ER07–59–004.

Applicants: Fortis Energy Marketing & Trading GP.

Description: Fortis Energy Marketing & Trading GP submits a supplement to its 6/17/08 filing to include an Appendix b (the Asset Matrix).

Filed Date: 07/03/2008.

Accession Number: 20080708–0006.

Comment Date: 5 p.m. Eastern Time on Thursday, July 24, 2008.

Docket Numbers: ER08–370–002.

Applicants: Midwest Independent Transmission System.

Description: Missouri River Energy Services requests that FERC approve its Attachment O Variance Filing and Petition for Declaratory Order.

Filed Date: 07/16/2008.

Accession Number: 20080718–0223.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 6, 2008.

Docket Numbers: ER08–847–001.

Applicants: Union Electric Company.

Description: Entergy Arkansas, Inc. submits the revised Interchange Agreement between Union Electric Company and EAI, designated as EAI First Revised Rate Schedule 129 in conformance with Order 614.

Filed Date: 07/15/2008.

Accession Number: 20080715–0144.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 5, 2008.

Docket Numbers: ER08–857–001.

Applicants: Southwestern Public Service Company.

Description: Southwestern Public Service Company submits SPS's proposed Electric Coordination Service Tariff under ER08–857.

Filed Date: 07/16/2008.

Accession Number: 20080718–0198.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 6, 2008.

Docket Numbers: ER08–899–000; ER08–899–001.

Applicants: Ohio Power Company.

Description: Ohio Power Company withdraws the ''Cost-Based Formula Rate Agreement for Full Requirements Electric Service'', dated 4/30/08 with Wheeling Power Company etc.

Filed Date: 07/15/2008.

Accession Number: 20080718–0181.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 5, 2008.

Docket Numbers: ER08–933–002; ER08–934–003.

Applicants: Lempster Wind, LLC; Locust Ridge II, LLC.

Description: Lempster Wind, LLC *et al.* responds to FERC's additional information request.
Filed Date: 07/02/2008.
Accession Number: 20080707–0294.
Comment Date: 5 p.m. Eastern Time on Wednesday, July 23, 2008.

Docket Numbers: ER08–974–001.
Applicants: Baltimore Gas and Electric Company.
Description: Baltimore Gas and Electric Company submits response to deficiency letter under ER08–974.
Filed Date: 07/15/2008.
Accession Number: 20080717–0052.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 5, 2008.

Docket Numbers: ER08–1230–001.
Applicants: Severstal Sparrows Point, LLC.
Description: Severstal Sparrows Point, LLC submits Notice of Succession under ER08–1230.
Filed Date: 07/15/2008.
Accession Number: 20080716–0152.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 5, 2008.

Docket Numbers: ER08–1232–001.
Applicants: Sconza Candy Company.
Description: Sconza Candy Company submits a Petition for Acceptance of Initial Rate Schedule, Waivers and Blanket Authority, FERC Electric Tariff, Original Volume 1 under ER08–1232.
Filed Date: 07/11/2008.
Accession Number: 20080718–0192.
Comment Date: 5 p.m. Eastern Time on Friday, August 1, 2008.

Docket Numbers: ER08–1240–000.
Applicants: MH Partners LP.
Description: MH Partners LP submits the Petition for Acceptance of Initial Tariff, Waivers and Blanket Authority under ER08–1240.
Filed Date: 07/15/2008.
Accession Number: 20080717–0051.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 5, 2008.

Docket Numbers: ER08–1260–000.
Applicants: Naturener Montana Wind Energy LLC.
Description: Naturener Montana Wind Energy, LLC submits Application for Market-Based Rate Authority, Request for Waivers and Pre-Approvals, Request for Finding of Qualification as Category 1 Seller, and Request for Shortened Comment etc. under ER08–1260.
Filed Date: 07/15/2008.
Accession Number: 20080716–0153.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 5, 2008.

Docket Numbers: ER08–1261–000.
Applicants: Naturener Glacier Wind Energy 1, LLC.
Description: Naturener Montana Wind Energy, LLC submits Application for Market-Based Rate Authority, Request for Waivers and Pre-Approvals, Request for Finding of Qualification as Category 1 Seller, and Request for Shortened Comment etc. under ER08–1261.
Filed Date: 07/15/2008.
Accession Number: 20080716–0154.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 5, 2008.

Docket Numbers: ER08–1262–000.
Applicants: Ameren Energy Generating Company.
Description: Ameren Energy Generating Company *et al.* submits revised versions of their marjet-based rate tariff to allow AEG and AEM to sell ancillary services, including sales into ancillary services markets administered etc. under ER08–1262 *et al.*
Filed Date: 07/11/2008.
Accession Number: 20080715–0151.
Comment Date: 5 p.m. Eastern Time on Friday, August 1, 2008.

Docket Numbers: ER08–1263–000.
Applicants: Ameren Energy Marketing Company.
Description: Ameren Energy Generating Company *et al.* submits revised versions of their marjet-based rate tariff to allow AEG and AEM to sell ancillary services, including sales into ancillary services markets administered etc. under ER08–1262 *et al.*
Filed Date: 07/11/2008.
Accession Number: 20080715–0151.
Comment Date: 5 p.m. Eastern Time on Friday, August 1, 2008.

Docket Numbers: ER08–1268–000; ER00–2687–009.
Applicants: Union Electric Company.
Description: Union Electric Co submits a revised version of its market based rate tariff to allow them to sell ancillary services etc. under ER00–2687 *et al.*
Filed Date: 07/11/2008.
Accession Number: 20080716–0003.
Comment Date: 5 p.m. Eastern Time on Friday, August 1, 2008.

Docket Numbers: ER08–1269–000.
Applicants: Allegheny Energy Supply Company, LLC.
Description: Allegheny Energy Supply Company, LLC submits notices of cancellation and notices of termination of Original Service Agreement 2 *et al.* pursuant to Order 614 under ER08–1269.
Filed Date: 07/15/2008.
Accession Number: 20080715–0146.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 5, 2008.

Docket Numbers: ER08–1270–000; ER04–53–008.
Applicants: AmerenEnergy Resources Generating Co.
Description: AmerenEnergy Resources Generating Company submits a revised version of its market based rate tariff to allow them to sell ancillary services into ancillary service markets under ER04–53 *et al.*
Filed Date: 07/11/2008.
Accession Number: 20080716–0002.
Comment Date: 5 p.m. Eastern Time on Friday, August 1, 2008.

Docket Numbers: ER08–1271–000; ER04–8–006.
Applicants: AmerenEnergy Medina Valley Cogen, LLC.
Description: AmerenEnergy Medina Valley Cogen, LLC submits revised version of its market-based rate tariff to allow AEMVC to sell ancillary services, including sales into ancillary services markets administered etc under ER08–1271 *et al.*
Filed Date: 07/11/2008.
Accession Number: 20080716–0001.
Comment Date: 5 p.m. Eastern Time on Friday, August 1, 2008.

Docket Numbers: ER08–1272–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc submits revised tariff sheets for Attachments S and X of its Open Access Transmission Tariff to revise the NYISO's Large interconnection provisions under ER08–1272.
Filed Date: 07/15/2008.
Accession Number: 20080716–0151.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 5, 2008.

Docket Numbers: ER08–1273–000.
Applicants: The Midwest Independent Transmission Sys.
Description: Midwest Independent Transmission System Operator, Inc. submits a facilities Construction Agreement among Benton County Wind Farm, LLC etc.
Filed Date: 07/15/2008.
Accession Number: 20080716–0150.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 5, 2008.

Docket Numbers: ER08–1275–000.
Applicants: E. ON U.S. LLC.
Description: E.ON U.S., LLC on behalf of Louisville Gas and Electric Company et al submits an unexecuted Network Integration Transmission Service Agreement etc. with Tennessee Valley Authority.
Filed Date: 07/16/2008.
Accession Number: 20080718–0194.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 6, 2008.

Take notice that the Commission received the following open access transmission tariff filings:
Docket Numbers: OA08–120–000.
Applicants: Alcoa Power Generating Inc.
Description: Alcoa Power Generating, Inc.-Yadkin Division submits Fourth

Revised Sheet 19 and Original Sheet 19.01 containing Section 2.2 of its Open Access Transmission Tariff to reflect the new pro forma provision etc under OA08–120.

Filed Date: 07/15/2008.

Accession Number: 20080717–0050.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 05, 2008.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH08–32–000.

Applicants: CHx Capital Missouri Inc.

Description: CHx Capital Missouri Inc. submits Form FERC–65A Exemption Notification notifying that it is exempt from the requirements of Sections 366.2 *et al.* under PH08–32.

Filed Date: 07/15/2008.

Accession Number: 20080716–0149.

Comment Date: 5 p.m. Eastern Time on Tuesday, August 5, 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. E8–17195 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

March 20, 2008.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC08–54–000.

Applicants: Western Kentucky Energy Corp.,E.ON U.S. LLC.

Description: Application of Western Kentucky Energy Corp's *et al.* application requesting that FERC authorize or disclaim jurisdiction over the transactions.

Filed Date: 03/14/2008.

Accession Number: 20080319–0228.

Comment Date: 5 p.m. Eastern Time on Friday, April 04, 2008.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG08–48–000.

Applicants: Standard Binghamton LLC.

Description: Amendment to Application of Standard Binghamton LLC.

Filed Date: 03/19/2008.

Accession Number: 20080319–5041.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 09, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER06–1331–002; ER01–2543–004; ER01–2544–004; ER01–2545–004; ER01–2546–004; ER01–2547–004; ER03–1182–005; ER04–698–005; ER99–415–015.

Applicants: CalPeak Power LLC; CalPeak Power-Panoche LLC; CalPeak Power-Vaca Dixon LLC; CalPeak Power-El Cajon LLC; Calpeak Power-Enterprise, LLC; Calpeak Power-Border, LLC; Tyr Energy, LLC; Tor Power, LLC; Commonwealth Chesapeake Company LLC.

Description: CalPeak Power LLC *et al.* submits a notice of non-material change in status in compliance with FERC's Order 652 under ER06–1331 *et al.*

Filed Date: 03/14/2008.

Accession Number: 20080319–0057.

Comment Date: 5 p.m. Eastern Time on Friday, April 04, 2008.

Docket Numbers: ER07–397–003.

Applicants: ISO New England Inc.

Description: ISO New England Inc *et al.* submits their report showing the amounts refunded in accordance with Section V A–4 of Schedule 2 of the ISO's Open Access Transmission Tariff.

Filed Date: 03/17/2008.

Accession Number: 20080319–0046.

Comment Date: 5 p.m. Eastern Time on Monday, April 07, 2008.

Docket Numbers: ER08–411–003.

Applicants: Tiger Natural Gas, Inc.

Description: Tiger Natural Gas, Inc submits Substitute Original Sheet 1 to FERC Electric Tariff, Original Volume 1.

Filed Date: 02/29/2008.

Accession Number: 20080320–0339.

Comment Date: 5 p.m. Eastern Time on Monday, March 31, 2008.

Docket Numbers: ER08–507–000.

Applicants: Virginia Electric and Power Company.

Description: Notice of Virginia Electric and Power Company of Withdrawal of Notice of Cancellation.

Filed Date: 03/19/2008.

Accession Number: 20080319–5070.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 09, 2008.

Docket Numbers: ER08–525–001.

Applicants: PacifiCorp.

Description: PacifiCorp submits Extension Letter Agreement for Rate Schedule 35 for use of Facilities Agreement between the United States of America, Bureau of Reclamations and PacifiCorp.

Filed Date: 03/14/2008.

Accession Number: 20080318–0006.

Comment Date: 5 p.m. Eastern Time on Friday, April 04, 2008.

Docket Numbers: ER08–537–001.

Applicants: Safe Harbor Water Power Corporation.

Description: Safe Harbor Water Power Corporation submits Substitute Original Sheet 2 of its market-based rate tariff, effective 3/1/08, which reflects revisions to its tariff as requested by FERC.

Filed Date: 03/18/2008.

Accession Number: 20080320–0029.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 08, 2008.

Docket Numbers: ER08–609–001.

Applicants: Endure Energy, L.L.C.

Description: Endure Energy LLC submits amended petition for acceptance of initial tariff, waivers and blanket authority.
Filed Date: 03/18/2008.
Accession Number: 20080320–0028.
Comment Date: 5 p.m. Eastern Time on Monday, March 31, 2008.

Docket Numbers: ER08–676–000.
Applicants: Winnebago Windpower LLC.
Description: Application of Winnebago Windpower LLC for order accepting initial tariff etc.
Filed Date: 03/17/2008.
Accession Number: 20080318–0014.
Comment Date: 5 p.m. Eastern Time on Monday, April 07, 2008.

Docket Numbers: ER08–680–000.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company submits First Revised Sheet 1–67 *et al.* to FERC Electric Tariff, Volume 5.
Filed Date: 03/17/2008.
Accession Number: 20080319–0048.
Comment Date: 5 p.m. Eastern Time on Monday, April 07, 2008.

Docket Numbers: ER08–682–000.
Applicants: Idaho Power Company.
Description: Idaho Power Company submits certain modifications to non-rate terms and conditions in its Open Access Transmission Tariff, to be effective 3/17/08.
Filed Date: 03/18/2008.
Accession Number: 20080320–0027.
Comment Date: 5 p.m. Eastern Time on Tuesday, April 08, 2008.

Docket Numbers: ER08–683–000.
Applicants: The United Illuminating Company.
Description: The United Illuminating Company submits proposed modifications to Schedule 21–UI of the ISO New England Inc Transmission, Markets and Services Tariff.
Filed Date: 03/18/2008.
Accession Number: 20080320–0030.
Comment Date: 5 p.m. Eastern Time on Tuesday, April 08, 2008.

Docket Numbers: ER08–684–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool Inc submits two executed Service Agreements for the Reassignment of Long-Term Firm Point-to-Point Transmission Service with Bear Energy LP as the Assignee.
Filed Date: 03/18/2008.
Accession Number: 20080320–0031.
Comment Date: 5 p.m. Eastern Time on Tuesday, April 08, 2008.

Docket Numbers: ER08–686–000.
Applicants: PEPCO Holdings, Inc.; Potomac Electric Power Company; Delmarva Power & Light Company; Atlantic City Electric Company.
Description: Pepco Holding Inc *et al.* submits Second Revised Sheet 298E *et al.,* Sixth Revised Volume 1 to the Open Access Transmission Tariff of PJM Interconnection, LLC.
Filed Date: 03/18/2008.
Accession Number: 20080320–0034.
Comment Date: 5 p.m. Eastern Time on Tuesday, April 08, 2008.

Docket Numbers: ER08–687–000.
Applicants: Stockton CoGen Company.
Description: Stockton CoGen Company submits an application requesting that FERC accept their FERC Electric Tariff, Original Volume 1, to become effective 3/20/08.
Filed Date: 03/19/2008.
Accession Number: 20080320–0033.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 09, 2008.

Docket Numbers: ER99–2948–013; ER00–2918–012; ER00–2917–012; ER97–2261–023; ER01–556–011; ER01–1654–014; ER02–2567–012; ER02–699–006; ER04–485–009; ER07–247–004; ER07–245–004; ER07–244–004.
Applicants: Baltimore Gas and Electric Company; Constellation Pwr Source Generation LLC; Calvert Cliffs Nuclear Power Plant, Inc.; Constellation Energy Commodities Group; Handsome Lake Energy, LLC; Nine Mile Point Nuclear Station, LLC; Constellation NewEnergy, Inc.; Constellation Energy Commodities Group Maine, LLC; R.E. Ginna Nuclear Power Plant, LLC; Raven One, LLC; Raven Two, LLC; Raven Three, LLC.
Description: Baltimore Gas and Electric Company *et al.* submits notice of change in status.
Filed Date: 03/17/2008.
Accession Number: 20080319–0045.
Comment Date: 5 p.m. Eastern Time on Monday, April 07, 2008.

Take notice that the Commission received the following open access transmission tariff filings:
Docket Numbers: OA08–69–001.
Applicants: Tucson Electric Power Company.
Description: Errata to Order No. 890–A OATT Filing of Tucson Electric Power Company.
Filed Date: 03/20/2008.
Accession Number: 20080320–5027.
Comment Date: 5 p.m. Eastern Time on Thursday, April 10, 2008.

Docket Numbers: OA08–80–000.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Co submits their compliance filing, with changes to its Fourteenth Revised Volume 2 Open Access Transmission Tariff.
Filed Date: 03/17/2008.
Accession Number: 20080318–0058.
Comment Date: 5 p.m. Eastern Time on Monday, April 07, 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.

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(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

Editorial Note: This document was received in the Office of the Federal Register on July 24, 2008.

[FR Doc. E8–17335 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–429–000]

Kern River Gas Transmission Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Kern River 2010 Expansion Project and Request for Comments on Environmental Issues

July 21, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the potential environmental impacts of the Kern River 2010 Expansion Project (Project) involving construction and operation of natural gas transmission facilities by Kern River Gas Transmission Company (Kern River) in Lincoln and Uinta Counties, Wyoming and San Bernardino County, California. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help determine which issues need to be evaluated in the EA. Please note that the scoping period will close on August 20, 2008. Details on how to submit comments are provided in the Public Participation section of this notice.

This notice is being sent to affected landowners; federal, state, and local government agencies; elected officials; other interested parties; and newspapers. State and local government representatives are asked to notify their constituents of this proposed project and to encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*www.ferc.gov*).

Summary of the Proposed Project

Kern River proposes to design, construct, operate, and maintain (a) one new 20,500-horsepower (hp) gas-driven compressor unit and restage five compressor units at the existing Muddy Creek Compressor Station in Lincoln County, Wyoming; (b) restage two compressor units at the existing Painter Compressor Station in Uinta County, Wyoming; and (c) install additional metering facilities at the Opal Meter Station in Lincoln County, Wyoming and at the Kramer Junction Meter Station in San Bernardino County, California. Kern River would also increase the maximum allowable operating pressure (MAOP) of its 1,380 miles of pipeline from 1,200 pounds per square inch gauge (psig) to 1,333 psig and increase the MAOP of the meter stations and compressor stations along its system from 1,250 psig to 1,350 psig. Kern River would undertake the construction tasks related to the MAOP increase pursuant to section 157.211(a) and its blanket authority. The proposed modifications would increase summer design capacity on Kern River's system by 1,731,126 dekatherms per day (Dth/d) to 1,876,126 Dth/d.

The general location of the proposed facilities is shown in appendix 1.[1]

Land Requirements for Construction

The construction of the proposed Project would occur entirely within Kern River's existing compressor station and meter station sites. Construction of the Project would affect a total of about 1.07 acre, of which 1 acre would be disturbed at the Muddy Creek Compressor Station. No clearing of vegetation would be required for the Project.

The EA Process

We[2] are preparing this EA to comply with the National Environmental Policy Act of 1969 (NEPA), which requires the Commission to take into account the environmental impact that could result if it authorizes Kern River's proposal. By this notice, we are also asking federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. Agencies that would like to request cooperating status should follow the instructions for filing comments provided below.

NEPA also requires the FERC to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on important environmental issues. By this Notice, we are requesting public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Land use and visual quality
- Cultural resources
- Vegetation and wildlife (including threatened and endangered species)
- Air quality and noise
- Reliability and safety

We will also evaluate possible alternatives to the proposed project or portions of the project, where necessary, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be presented in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies; public interest groups; interested individuals; affected landowners; local libraries and newspapers; and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the Public Participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the Kern River 2010 Expansion Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Web site (*www.ferc.gov*) at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First St., NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the ''Additional Information'' section of this notice. Copies of the appendices were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to Kern River.

[2] ''We'', ''us'', and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send in your comments so that they will be received in Washington, DC, on or before August 20, 2008.

For your convenience, there are three methods in which you can use to submit your comments to the Commission. In all instances please reference the project docket number CP08–429–000 with your submission. The docket number can be found on the front of this notice. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at 202–502–8258 or *efiling@ferc.gov*.

(1) You may file your comments electronically by using the Quick Comment feature, which is located on the Commission's Internet Web site at *http://www.ferc.gov* under the link to Documents and Filings. A Quick Comment is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's Internet Web site at *http://www.ferc.gov* under the link to Documents and Filings. eFiling involves preparing your submission in the same manner as you would if filing on paper, and then saving the file on your computer's hard drive. You will attach that file as your submission. New eFiling users must first create an account by clicking on ''Sign up'' or ''eRegister.'' You will be asked to select the type of filing you are making. A comment on a particular project is considered a ''Comment on a Filing''; or

(3) You may file your comments via mail to the Commission by sending an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

Label one copy of the comments for the attention of Gas Branch 1, PJ11.1.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must send one electronic copy (using the Commission's eFiling system) or 14 paper copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding.

If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). Only intervenors have the right to seek rehearing of the Commission's decision. Further instructions for becoming an intervenor are included in the User's Guide under the ''e-filing'' link on the Commission's Web site (*http://www.ferc.gov*).

The Notice of Application for this proposed project issued on July 7, 2008, identified the date for the filing of interventions as July 28, 2008. However, affected landowners and parties with environmental concerns may be granted late intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

As described above, we may mail the EA for comment. If you are interested in receiving an EA for review and/or comment, please return the Environmental Mailing List Mailer (appendix 2). If you do not return the Environmental Mailing List Mailer, you will be taken off the mailing list. All individuals who provide written comments will remain on our environmental mailing list for this project.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*www.ferc.gov*) using the ''eLibrary'' link. Click on the eLibrary link, then on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm*.

Finally, any public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17144 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No.1881–050; Pennsylvania]

PPL Holtwood, LLC; Notice of Availability of the Draft Environmental Impact Statement for the Holtwood Project

July 18, 2008.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the capacity related amendment application for PPL Holtwood LLC's 107.2-megawatt Holtwood Hydroelectric Project (Project No. 1881), located on the Susquehanna river in the counties of Lancaster and York, Pennsylvania. Based upon this review, the Office of Energy Projects has prepared a Draft Environmental Impact Statement (draft EIS) for the project.

The draft EIS contains staff's evaluation of the applicant's proposal and alternatives. The proposal is for the construction of a new powerhouse, installation of turbines, construction of a new skimmer wall, enlargement of the forebay, and reconfiguration of the project facilities to enhance upstream fish passage through modifications of the existing fishway and excavation in the tailrace channel. The installed capacity would increase by approximately 80 MW. Additionally, PPL Holtwood LLC requested a 16-year extension of the current license term until August 31, 2030. The draft EIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, and Commission staff.

A copy of the draft EIS is available for review in the Commission's Public Reference Branch, Room 2A, located at 888 First Street, NE., Washington, DC 20426. The final EIS also may be viewed on the Commission's Web site at *http://www.ferc.gov* under the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Blake Condo at (202) 502–8914 or *blake.condo@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17176 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 516–452]

South Carolina Electric and Gas Company; Notice of Availability of Environmental Assessment

July 18, 2008.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47879), the Office of Energy Projects has prepared an environmental assessment (EA) for an application filed by South Carolina Electric and Gas Company (SCE&G) (licensee) on January 17, 2008, for a non-project use of project lands and waters at the Saluda Hydroelectric Project (FERC Project No.516). Specifically, the licensee requests authorization to issue a permit to Lighthouse Developments, Inc. (Lighthouse) to install a community dock that would accommodate 84 watercraft, a boat launch ramp, and parking lot. The proposed facilities would provide boating access to the project's reservoir (Lake Murray) for homeowners in a new residential development known as Paradise Cove. The EA evaluates the environmental impacts that would likely result from Lighthouse's development proposal. The EA finds that approval of SCE&G's application would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number (P–516) 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.

Any comments should be filed by July 31, 2008, and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1–A, Washington, DC 20426. Please reference the project name and project number (P–2686) on all comments. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link. For further information, contact Brian Romanek at (202) 502–6175.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17170 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–418–000]

Southeast Gas Storage, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Black Warrior Storage Project and Request for Comments on Environmental Issues

July 21, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Black Warrior Storage Project involving construction and operation of facilities by Southeast Gas Storage, LLC (Southeast) in Monroe and Lowndes Counties, Mississippi.[1] These facilities would consist of new natural gas pipeline, abandonment by removal of existing pipeline, new existing injection/withdrawal wells, new gathering pipelines, a new salt water disposal pipeline, conversion of existing gas wells to observation wells, a new salt water disposal well, a new compressor station and a new meter station. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help determine which issues need to be evaluated in the EA. Please note that the scoping period will close on August 20, 2008. Details on how to submit comments are provided in the Public Participation section of this notice.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Southwest provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*www.ferc.gov*).

Summary of the Proposed Project

Southeast proposes to convert a nearly depleted oil and gas reservoir into a high-deliverability natural gas storage facility approximately 3.5 miles northwest of Caledonia in Monroe and Lowndes Counties, Mississippi. The purpose of this project is to provide 24.7 billion cubic feet of working gas capacity to customers in the region. Southeast would achieve this capacity by drilling new withdrawal/injection wells, converting, reworking or plugging existing wells, constructing lateral and

[1] Southwest's application was filed with the Commission under section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

gathering pipelines, and installing new compression. Southeast proposes:

- 4.6 miles of new 24-inch-diameter lateral pipeline, designated the Line 547M–100 pipeline, replacing the existing 6-inch-diameter Line 547E–100 pipeline. The Line 547M–100 pipeline would extend from the Tennessee Gas Pipeline Company tie-ins to Southwest's proposed new Hamilton Compressor Station;
- Removal of 11,600 feet of the existing 6-inch-diameter Line 547E–100 pipeline;
- The new electric driven 24,000-horsepower Hamilton Compressor Station;
- 2.8 miles of 24-inch-diameter gathering pipelines from the proposed compressor station to seven well pads;
- 5,500 feet of 4.5-inch-diameter salt water disposal piping;
- 15 new horizontal withdrawal/injection wells and associated well pads;
- 4 existing active wells to be converted to observation wells;
- 9 plugged and abandoned wells to be converted to observation wells;
- 2 existing active wells to be plugged and abandoned;
- 2 existing active wells to convert to injection/withdrawal wells;
- 1 plugged and abandoned well to be re-plugged and abandoned;
- 1 new salt water disposal well and associated well pad;
- 1 plugged and abandoned stratigraphic test well drilled under a Commission exemption to be converted to an observation well;
- A new electrical substation; and
- The new Hamilton Meter Station and interconnect.

Southeast requests certification by December 31, 2008, for an in-service date of June 2010. The location of the project facilities is shown in Appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would require disturbance of about 253 acres of widely distributed land surrounding the proposed Hamilton Compressor Station. This includes 200 acres under new permanent easement and 53 acres that would be restored to previous land use following construction.

Southeast would conduct well drilling, conversion, and abandonment on a combination of existing and new well pad sites. The 15 new wells would be constructed on 15 new individual well pad sites, at seven locations, with well pads ranging in size from 300 by 300 feet to 400 by 425 feet of permanent easement. One new salt water disposal well would be constructed within a 300 by 300-foot area of new permanent easement. The proposed Hamilton Compressor Station and associated electrical substation would occupy a 27-acre area of new permanent easement. The proposed meter station would occupy 0.6 acre of new permanent easement. The proposed Line 547M–100 pipeline and the gathering pipelines would be constructed with a 75-foot-wide typical construction width within a 50-foot-wide new permanent right-of-way. Southeast would abandon by removal all of the existing 11,000-foot-long Line 547E–100 pipeline, which would be replaced in the same trench with the proposed Line 547M–100 pipeline. Construction and operation of the salt water disposal pipeline would require 50 and 25 feet of right-of-way width, respectively. The combined pipeline construction would require 83 acres of disturbance. Extra work spaces along the pipelines and well pad areas, contractor yards, horizontal directional drill sites and access roads would disturb 23 acres of temporary right-of-way.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

In the EA we[3] will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources
- Wetlands and fisheries
- Vegetation and wildlife
- Threatened and endangered species
- Land use
- Cultural resources
- Air quality and noise
- Reliability and safety, and
- Cumulative impacts

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Southeast. This preliminary list of issues may be changed based on your comments and our analysis.

- Cultural resources may be affected by the project.
- Federally listed threatened and endangered species are present in the project area.
- The Hamilton Compressor Station may have visual impacts.
- Route variations for the Line 547M–100 pipeline will be studied.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the Black Warrior Storage Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices, other than Appendix 1 (maps), are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

they will be. To ensure that your comments are timely and properly recorded, please send in your comments so that they will be received in Washington, DC on or before August 20, 2008.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number CP08–418–000 with your submission. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at 202–502–8258 or *efiling@ferc.gov*:

(1) You may file your comments electronically by using the Quick Comment feature, which is located on the Commission's Internet Web site at *http://www.ferc.gov* under the link to Documents and Filings. A Quick Comment is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the *eFiling* feature, which is located on the Commission's Internet Web site at *http://www.ferc.gov* under the link to Documents and Filings. eFiling involves preparing your submission in the same manner as you would if filing on paper, and then saving the file on your computer's hard drive. You will attach that file as your submission. New eFiling users must first create an account by clicking on ''Sign up'' or ''eRegister.'' You will be asked to select the type of filing you are making. A comment on a particular project is considered a ''Comment on a Filing''; or

(3) You may file your comments via mail to the Commission by sending an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

Label one copy of the comments for the attention of Gas Branch 2, PJ11.2.

As described above, we may publish and distribute the EA for comment. If you are interested in receiving an EA for review and/or comment, please return the Environmental Mailing List Form (Appendix 3). If you do not return the Environmental Mailing List Form, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding, or ''intervenor''. To become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). Intervenors have the right to seek rehearing of the Commission's decision. Motions to Intervene should be electronically submitted using the Commission's eFiling system at *http://www.ferc.gov*. Persons without Internet access should send an original and 14 copies of their motion to the Secretary of the Commission at the address indicated previously. Persons filing Motions to Intervene on or before the comment deadline indicated above must send a copy of the motion to the Applicant. All filings, including late interventions, submitted after the comment deadline must be served on the Applicant and all other intervenors identified on the Commission's service list for this proceeding. Persons on the service list with e-mail addresses may be served electronically; others must be served a hard copy of the filing.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities. By this notice we are also asking governmental agencies, especially those in Appendix 2, to express their interest in becoming cooperating agencies for the preparation of the EA.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits (*i.e.*, enter PF06–398) in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm*.

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17157 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–56–004; EL07–58–004]

Allegheny Electric Cooperative v. PJM Interconnection, LLC; Notice of Filing

July 18, 2008.

Take notice that on July 7, 2008, PJM Interconnection, LLC filed revised Tariff and Operating Agreement sheets to reflect an August 1, 2008 effective date to correspond to the implementation date and on July 8, 2008 filed an additional revision to section X of Attachment M to also reflect the August 1, 2008 effective date.

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 July 28, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17171 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[ER99–3151–008, etc.]

PSEG Energy Resources & Trade LLC, et al.; Notice of Filing

July 18, 2008.

In the matter of: Docket Nos. ER99–3151–008, ER97–837–007, ER03–327–002, ER08–447–000, ER08–448–000; PSEG Energy Resources & Trade LLC, Public Service Electric and Gas Company, PSEG Power Connecticut LLC, PSEG Fossil LLC, PSEG Nuclear LLC.

ER98–1466–005, ER00–814–006, ER00–2924–006, ER02–1638–005; Allegheny Power, Allegheny Energy Supply Company, LLC, Green Valley Hydro, LLC, Buchanan Generation, LLC.

ER00–1712–008, ER02–2408–003, ER00–744–006, ER00–744–006, ER00–744–006, ER00–744–006, ER00–744–006, ER02–1327–005, ER00–1703–003, ER02–1749–003, ER02–1747–003, ER99–4503–005, ER00–2186–003, ER01–1559–004; PPL Electric Utilities Corporation, Lower Mount Bethel Energy, LLC, PPL Brunner Island, LLC, PPL Holtwood, LLC, PPL Marlins Creek, LLC, PPL Montour, LLC, PPL Susquehanna, LLC, PPL University Park, LLC, PPL EnergyPlus, LLC, PPL Edgewood Energy, LLC, PPL Shoreham Energy, LLC, PPL Great Works, LLC, PPL Maine, LLC, PPL Wallingford Energy LLC.

ER96–1361–013, ER99–2781–011, ER98–4138–009, ER00–1770–019, ER02–453–010, ER98–3096–015, ER07–903–002, ER05–1054–003, ER01–202–008, ER04–472–007; Atlantic City Electric Company, Delmarva Power & Light Company, Potomac Electric Power Company, Conectiv Energy Supply, Inc., Conectiv Bethlehem, LLC, Pepco Energy Services, Inc., Bethlehem Renewable Energy, LLC, Eastern Landfill Gas, LLC, Potomac Power Resources, LLC, Fauquier Landfill Gas, LLC.

ER01–468–008, ER00–3621–009, ER00–3746–009, ER04–318–004, ER05–36–005, ER05–37–005, ER05–34–005, ER05–35–005, ER04–249–005, ER99–1695–010, ER02–23–011, ER97–30–006, ER96–2869–013, ER97–3561–005, ER00–1737–011; Dominion Energy Marketing, Inc., Dominion Nuclear Connecticut, Inc., Dominion Nuclear Marketing III, LLC, Dominion Energy Kewaunee, Inc., Dominion Energy Brayton Point, LLC, Dominion Energy Manchester Street, Inc., Dominion Energy New England, Inc., Dominion Energy Salem, Dominion Retail, Inc., Elwood Energy, LLC, Fairless Energy, LLC, Kincaid Generation, LLC, State Line Energy, LLC, Virginia Electric and Power Company.

ER99–2948–012, ER00–2918–011, ER00–2917–011, ER97–2261–022, ER01–556–010, ER01–1654–013, ER02–2567–011, ER02–699–005, ER04–485–008, ER07–247–003, ER07–245–003, ER07–244–003; Baltimore Gas and Electric Company, Constellation Power Source Generation, Inc., Calvert Cliffs Nuclear Power Plant, Inc., Constellation Energy Commodities Group, Inc., Handsome Lake Energy, LLC, Nine Mile Point Nuclear Station, LLC, Constellation NewEnergy, Inc., Constellation Energy Commodities Group Maine, LLC, R.E. Ginna Nuclear Power Plant, LLC, Raven One, LLC, Raven Two, LLC, Raven Three, LLC.

ER00–3251–015, ER99–754–016, ER98–1734–014, ER01–1919–011, ER01–1147–006, ER01–513–021, ER01–513–021, ER01–513–021, ER01–513–021, ER99–2404–011; Exelon Generation Company, LLC, AmerGen Energy Company, LLC, Commonwealth Edison Company, Exelon Energy Company, PECO Energy Company, Exelon West Medway, LLC, Exelon Wyman, LLC, Exelon New Boston, LLC, Exelon Framingham, LLC, Exelon New England Power Marketing, L.P.

ER01–1403–006, ER06–1443–002, ER04–366–005, ER01–2968–007, ER01–845–006, ER05–1122–004, ER08–107–001; FirstEnergy Operating Companies, Pennsylvania Power Company, *et al.*, Jersey Central Power & Light Company, FirstEnergy Solutions Corp., FirstEnergy Generation Corporation, FirstEnergy Nuclear Generating Corporation, FirstEnergy Generating Mansfield Unit 1 Corp.

Notice of Filing

Take notice that on July 14, 2008, PJM Interconnection, L.L.C. filed supplement information to its June 2, 2008, Supplemental Simultaneous Import Limitation (SIL) Study Adding the PJM-East SIL Study, in response to the Commission's July 3, 2008 Deficiency Notice.

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 July 25, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17175 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Meeting, Notice of Vote, Explanation of Action Closing Meeting and List of Persons To Attend

July 22, 2008.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: July 29, 2008, 10 a.m.

PLACE: Room 2C, Commission Meeting Room, 888 First Street, NE., Washington, DC 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Non-Public Investigations and Inquiries, Enforcement Related Matters.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

Chairman Kelliher and Commissioners Kelly, Spitzer, Moeller, and Wellinghoff voted to hold a closed meeting on July 29, 2008. The certification of the General Counsel explaining the action closing the meeting is available for public inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426.

The Chairman and the Commissioners, their assistants, the Commission's Secretary, the General Counsel and members of her staff, and a stenographer are expected to attend the meeting. Other staff members from the Commission's program offices who will advise the Commissioners in the matters discussed will also be present.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17180 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–438–000]

Golden Gas Service Company; Notice of Petition for Declaratory Order

July 18, 2008.

Take notice that on July 14, 2008, pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2007), Golden Gas Service Company filed a petition for a declaratory order requesting that the Commission disclaim jurisdiction over certain natural gas facilities because such facilities perform a gathering function exempt from the Commission's jurisdiction under section 1(b) of the Natural Gas Act.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time, August 15, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17178 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–436–000]

Midwestern Gas Transmission Company; Notice of Request Under Blanket Authorization

July 17, 2008.

Take notice that on July 8, 2008, Midwestern Gas Transmission Company (Midwestern), 100 West 5th Street, ONEOK Plaza, Tulsa, Oklahoma 74103, filed in Docket No. CP08–436–000, an application pursuant to sections 157.205, 157.208, and 157.210 of the Commission's Regulations under the Natural Gas Act (NGA) as amended, to modify facilities at the Sullivan compressor station located in Sullivan County, Indiana, and the Paris compressor station located in Edgar County, Illinois, under Midwestern's blanket certificate issued in Docket No. CP82–414–000,[1] all as more fully set forth in the application which is on file with the Commission and open to the public for inspection.

Midwestern states that it proposes to construct, own, and operate two additional bi-directional suction and two additional discharge pipeline segments, one of each at both the Sullivan (compressor station 2113) and Paris (compressor station 2115) compressor stations. Midwestern also states that both compressor stations are currently designed only to allow natural gas volumes to flow northward on Midwestern's line 2100–1. Midwestern further states that the project would provide incremental capability to allow up to 150,000 Dth/day of natural gas to flow southbound and that the proposed facilities would cost approximately $3,840,492 to construct.

Any questions concerning this application may be directed to Joseph W. Miller, Midwestern Gas Transmission Company, 100 West 5th Street, ONEOK Plaza, Tulsa, Oklahoma 74103, or via telephone at (918) 588–7057 or via facsimile at (918) 588–7890.

This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call toll-free at (866) 206–3676, or, for TTY, contact (202) 502–8659. Comments,

[1] 20 FERC ¶ 62,411 (1982).

protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages intervenors to file electronically.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the 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 filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17159 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1255–000]

Oak Creek Wind Power, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

July 18, 2008.

This is a supplemental notice in the above-referenced proceeding of Oak Creek Wind Power, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is August 7, 2008.

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-referenced proceeding 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17174 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1111–000]

Pioneer Prairie Wind Farm I, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

July 17, 2008.

This is a supplemental notice in the above-referenced proceeding of Pioneer Prairie Wind Farm I, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is August 6, 2008.

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-referenced proceeding 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17160 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1232–000]

Sconza Candy Company; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

July 18, 2008.

This is a supplemental notice in the above-referenced proceeding of Sconza Candy Company's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 7, 2008.

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-referenced proceeding 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17172 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1147–000]

SG Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

July 17, 2008.

This is a supplemental notice in the above-referenced proceeding of SG Energy, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 6, 2008.

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-referenced proceeding 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17158 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–1237–000]

Shiloh Wind Project 2, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

July 18, 2008.

This is a supplemental notice in the above-referenced proceeding of Shiloh Wind Project 2, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 7, 2008.

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-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive E-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please E-mail *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–17173 Filed 7–25–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R01–OAR–2008–0485; A–1–FRL–8698–4]

Adequacy Status of the Submitted 2009 VOC and NO_X Motor Vehicle Emissions Budgets for Transportation Conformity Purposes; New Hampshire; Boston-Manchester-Portsmouth (SE), New Hampshire, 8-Hour Ozone Area.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: EPA is notifying the public that EPA has found that the 2009 motor vehicle emissions budgets in the May 28, 2008 New Hampshire State Implementation Plan (SIP) revision are adequate for transportation conformity purposes. The submittal includes MOBILE 6.2 motor vehicle emission budgets for 2009 for the Boston-Manchester-Portsmouth (Southeast), New Hampshire; 8-hour ozone area. As a result of our finding, the State of New Hampshire must use these motor vehicle emission budgets for future conformity determinations for the Boston-Manchester-Portsmouth (Southeast), New Hampshire; 8-hour ozone area.

DATES: These motor vehicle emissions budgets are effective August 12, 2008.

FOR FURTHER INFORMATION CONTACT: Donald O. Cooke, Environmental Scientist, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114–2023, (617) 918–1668, *cooke.donald@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us'' or ''our'' is used, we mean EPA.

Today's notice is simply an announcement of a finding that we have already made. EPA New England sent a letter to the New Hampshire Department of Environmental Services on July 9, 2008, stating that the 2009 MOBILE6.2 motor vehicle emissions budgets (MVEBs) in the May 28, 2008 SIP are adequate for transportation conformity purposes. This submittal will also be announced on EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm*, (once there, click on ''What SIP submissions has EPA already found adequacy or inadequate?''). The adequate 2009 MVEBs are provided in the following table:

ADEQUATE MOTOR VEHICLE EMISSIONS BUDGETS

	VOC (tons per summer day)	NO_X (tons per summer day)
Year 2009 MVEBs for the Boston-Manchester-Portsmouth (Southeast), New Hampshire; 8-Hour Ozone Area.	15.31	28.53

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emissions budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). We have described our process for determining the adequacy of submitted SIP budgets in our July 1, 2004, preamble starting at 69 FR 40038, and we used the information in these resources while making our adequacy determination. Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

Authority: 42 U.S.C. 7401–7671 q.

Dated: July 21, 2008.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. E8–17223 Filed 7–25–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2008–0153; FRL–8698–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Protection of Stratospheric Ozone: Critical Use Exemption From the Phaseout of Methyl Bromide (Renewal); EPA ICR No. 2031.03, OMB Control No. 2060–0482

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR,

which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before August 27, 2008.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2008–0153, to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *a-and-r-Docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket, Mail Code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB *by mail to*: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jeremy Arling, Stratospheric Protection Division, Office of Atmospheric Programs (6205J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* (202) 343–9055; *fax number:* (202) 343–2338; *e-mail address*: *arling.jeremy@epa.gov*. You may also visit the Ozone Depletion Web site of EPA's Stratospheric Protection Division at *http://www.epa.gov/ozone/strathome.html* for further information about EPA's Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and related topics.

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 10, 2008 (73 FR 12725), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received two comments during the comment period, which are addressed in the ICR. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OAR–2008–0153, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for Air and Radiation Docket is 202–566–1742.

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: Protection of Stratospheric Ozone: Critical Use Exemption from the Phaseout of Methyl Bromide (Renewal).

ICR Numbers: EPA ICR No. 2031.03, OMB Control No. 2060–0482.

ICR Status: EPA ICR 2031.02 is currently scheduled to expire on August 31, 2008. In addition, EPA ICR 2179.03 is scheduled to expire on November 30, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9 and are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA is seeking to renew EPA ICR 2031.02, which allows EPA to collect Critical Use Exemption (CUE) applications from regulated entities on an annual basis. EPA is also seeking to transfer the burden from EPA ICR 2179.03, which requires the submission of data from regulated industries to the EPA and requires recordkeeping of key documents to ensure compliance with the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol) and the Clean Air Act (CAA). Thus, the program for the critical use exemption of methyl bromide would operate under a single ICR.

Entities applying for this exemption are asked to submit to EPA applications with data necessary to evaluate the need for a critical use exemption. This information collection is conducted to meet U.S. obligations under Article 2H of the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol). The information collection request is required to obtain a benefit under Section 604(d)(6) of the CAA, added by Section 764 of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Pub. L. No. 105–277; October 21, 1998).

Since 2002, entities have applied to EPA for a critical use exemption that would allow for the continued production and import of methyl bromide after the phaseout in January 2005. These exemptions are for consumption only in those agricultural sectors that have demonstrated that there are no technically or economically feasible alternatives to methyl bromide. The applications are rigorously assessed and analyzed by EPA staff, including experts from the Office of Pesticide Programs. On an annual basis, EPA uses the data submitted by end users to create a nomination of critical uses which the U.S. Government submits to the Protocol's Ozone Secretariat for review by an international panel of experts and advisory bodies. These advisory bodies include the Methyl Bromide Technical Options Committee (MBTOC) and the Technical and Economic Assessment Panel (TEAP). The uses authorized internationally by the Parties to the Protocol are made available in the U.S. on an annual basis.

The applications will enable EPA to: (1) Maintain consistency with the Protocol by supporting critical use nominations to the Parties to the Protocol, in accordance with paragraph 2 of Decision IX/6 of the Protocol; (2) ensure that critical use exemptions comply with Section 604(d)(6); and (3) provide EPA with necessary data to evaluate the technical and economic feasibility of methyl bromide alternatives in the circumstance of the specific use, as presented in an application for a critical use exemption. The reported data will enable EPA to: (1) Ensure that critical use exemptions comply with Section 604(d)(6); (2) maintain compliance with the Protocol requirements for annual data submission on the production of ozone depleting substances; (3) analyze technical use data to ensure that exemptions are used in accordance with requirements included in the annual authorization rulemakings.

EPA informs respondents that they may assert claims of business confidentiality for any of the information they submit. Information claimed confidential will be treated in accordance with the procedures for

handling information claimed as confidential under 40 CFR part 2, subpart B, and will be disclosed only if EPA determines that the information is not entitled to confidential treatment. If no claim of confidentiality is asserted when the information is received by EPA, it may be made available to the public without further notice to the respondents (40 CFR 2.203). Individual reporting data may be claimed as sensitive and will be treated as confidential information in accordance with procedures outlined in 40 CFR part 2.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Producers, importers, distributors, and custom applicators of methyl bromide, organizations, consortia, and associations of methyl bromide users, as well as individual methyl bromide users.

Estimated Number of Respondents: 2179.

Frequency of Response: Quarterly for producers and importers, annually for distributors and applicators, periodically (at the time of purchase) for end users.

Estimated Total Annual Hour Burden: 4918.

Estimated Total Annual Cost: $993,622, which includes no capital or O&M costs.

Changes in the Estimates: There is a decrease of 82 hours in the total estimated respondent burden compared with the burden currently approved by OMB. This estimate for total burden hours includes updated burden estimates from this ICR as well as ICR 2060–0564, which is being transferred into this ICR.

The reason for the decrease in burden hours is that the Agency has six years of experience managing the critical use exemption program, which has led to efficiency and greater accuracy in estimating future burden. Over the last four years, EPA has received on average 65 applications each year, rather than the 100 estimated in the previous ICR. EPA continues to encourage users with similar circumstances to utilize grower and user organizations to aid in completion of the application, thereby reducing both the burden on applicants (particularly small businesses) and the Agency. The registration of additional alternatives since 2002 in the U.S. may also result in fewer applications received. Furthermore, stakeholders are more familiar with the critical use exemption program and have already organized associations to apply on behalf of multiple growers. Other reasons for burden reduction include the encouragement of electronic submission of applications and other data and very frequent EPA communication with methyl bromide stakeholders.

Dated: July 22, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–17218 Filed 7–25–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8697–7]

Chino Airport Radium Dials Site; Notice of Proposed CERCLA Settlement Agreement for Recovery of Past Response Costs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), the EPA is hereby providing notice of a proposed settlement agreement (''Agreement'') concerning the Chino Airport Radium Dials Site in San Bernardino County, California (''the Chino Airport Site''). Section 122(h) of CERCLA, 42 U.S.C 9622(h), provides EPA with the authority to enter into administrative settlements. Pursuant to this Agreement, San Bernardino County will reimburse the EPA for $481,677.18 in costs that the EPA incurred while overseeing the removal of hazardous substances from the Chino Airport Site and completing that removal action.

DATES: EPA will receive written comments relating to the settlement for a period of 30 days from the date of publication of this notice. EPA will consider all comments it receives during this period, and may modify or withdraw its consent to the Agreement if any comments disclose facts or considerations indicating that the Agreement is inappropriate, improper, or inadequate. The deadline for requesting a public meeting is two weeks from the date of publication of this Notice. Requests for a public meeting may be made by calling Taly Jolish, Esq. at (415) 972–3925, or e-mailing her at *Jolish.Taly@epa.gov,* or by facsimile at (415) 947–3570.

ADDRESSES: Written comments should be addressed to John Jaros, U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street (mail code SFD–9–4), San Francisco, California 94105–3901.

FOR FURTHER INFORMATION CONTACT: Additional information about the Chino Airport Site and about the proposed settlement may be obtained by calling Taly Jolish, Esq. at (415) 972–3925.

Dated: July 16, 2008.

Dan Meer,

Acting Director, Superfund Division, U.S. EPA, Region IX.

[FR Doc. E8–17235 Filed 7–25–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2870]

Petitions for Reconsideration of Action in Rulemaking Proceeding

July 21, 2008.

Petitions for Reconsideration have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to these petitions must be filed by September 11, 2008. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1). Replies to oppositions must be filed within 10 days after the time for filing oppositions has expired.

Subject: In the Matter of Amendment Section 73.622(i), Final DTV Table of

Allotments, Television Broadcast Stations (Riverside, California) (MB Docket No. 08–30).

Number of Petitions Filed: 1.

Subject: In the Matter of Improving Public Safety Communications in the 800 MHz Band (WT Docket No. 02–55). New 800 MHz Band Plan for U.S.-Canada Border Region.

Number of Petitions Filed: 1.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–17276 Filed 7–25–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Covered Bond Policy Statement

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final Statement of Policy.

SUMMARY: The Federal Deposit Insurance Corporation (the FDIC) is publishing a final policy statement on the treatment of covered bonds in a conservatorship or receivership. This policy statement provides guidance on the availability of expedited access to collateral pledged for certain covered bonds after the FDIC decides whether to terminate or continue the transaction. Specifically, the policy statement clarifies how the FDIC will apply the consent requirements of section 11(e)(13)(C) of the Federal Deposit Insurance Act (FDIA) to such covered bonds to facilitate the prudent development of the U.S. covered bond market consistent with the FDIC's responsibilities as conservator or receiver for insured depository institutions (IDI). As the U.S. covered bond market develops, future modifications or amendments may be considered by the FDIC.

DATES: *Effective Date:* July 28, 2008.

FOR FURTHER INFORMATION CONTACT: Richard T. Aboussie, Associate General Counsel, Legal Division, (703) 562–2452; Michael H. Krimminger, Special Advisor for Policy, (202) 898–8950.

SUPPLEMENTARY INFORMATION:

I. Background

On April 23, 2008, the FDIC published the Interim Final Covered Bond Policy Statement for public comment. 73 FR 21949 (April 23, 2008). After carefully reviewing and considering all comments, the FDIC has adopted certain limited revisions and clarifications to the Interim Policy Statement (as discussed in Part II) in the Final Policy Statement.[1]

Currently, there are no statutory or regulatory prohibitions on the issuance of covered bonds by U.S. banks. Therefore, to reduce market uncertainty and clarify the application of the FDIC's statutory authorities for U.S. covered bond transactions, the FDIC issued an Interim Policy Statement to provide guidance on the availability of expedited access to collateral pledged for certain covered bonds by IDIs in a conservatorship or a receivership. As discussed below, under section 11(e)(13)(C) of the FDIA, any liquidation of collateral of an IDI placed into conservatorship or receivership requires the consent of the FDIC during the initial 45 days or 90 days after its appointment, respectively. Consequently, issuers of covered bonds have incurred additional costs from maintaining additional liquidity needed to insure continued payment on outstanding bonds if the FDIC as conservator or receiver fails to make payment or provide access to the pledged collateral during these periods after any decision by the FDIC to terminate the covered bond transaction. The Policy Statement does not impose any new obligations on the FDIC, as conservator or receiver, but does define the circumstances and the specific covered bond transactions for which the FDIC will grant consent to expedited access to pledged covered bond collateral.

Covered bonds are general, non-deposit obligation bonds of the issuing bank secured by a pledge of loans that remain on the bank's balance sheet. Covered bonds originated in Europe, where they are subject to extensive statutory and supervisory regulation designed to protect the interests of covered bond investors from the risks of insolvency of the issuing bank. By contrast, covered bonds are a relatively new innovation in the U.S. with only two issuers to date: Bank of America, N.A. and Washington Mutual. These initial U.S. covered bonds were issued in September 2006.

In the covered bond transactions initiated in the U.S. to date, an IDI sells mortgage bonds, secured by mortgages, to a trust or similar entity (''special purpose vehicle'' or ''SPV'').[2] The pledged mortgages remain on the IDI's balance sheet, securing the IDI's obligation to make payments on the debt, and the SPV sells covered bonds, secured by the mortgage bonds, to investors. In the event of a default by the IDI, the mortgage bond trustee takes possession of the pledged mortgages and continues to make payments to the SPV to service the covered bonds. Proponents argue that covered bonds provide new and additional sources of liquidity and diversity to an institution's funding base.

The FDIC agrees that covered bonds may be a useful liquidity tool for IDIs as part of an overall prudent liquidity management framework and within the parameters set forth in the Policy Statement. While covered bonds, like other secured liabilities, could increase the costs to the deposit insurance fund in a receivership, these potential costs must be balanced with diversification of sources of liquidity and the benefits that accrue from additional on-balance sheet alternatives to securitization for financing mortgage lending. The Policy Statement seeks to balance these considerations by clarifying the conditions and circumstances under which the FDIC will grant automatic consent to access pledged covered bond collateral. The FDIC believes that the prudential limitations set forth in the Policy Statement permit the incremental development of the covered bond market, while allowing the FDIC, and other regulators, the opportunity to evaluate these transactions within the U.S. mortgage market. In fulfillment of its responsibilities as deposit insurer and receiver for failed IDIs, the FDIC will continue to review the development of the covered bond marketplace in the U.S. and abroad to gain further insight into the appropriate role of covered bonds in IDI funding and the U.S. mortgage market, and their potential consequences for the deposit insurance fund. (For ease of reference, throughout this discussion, when we refer to ''covered bond obligation,'' we are referring to the part of the covered bond transaction comprising the IDI's debt obligation, whether to the SPV, mortgage bond trustee, or other parties; and ''covered bond obligee'' is the entity to which the IDI is indebted.)

Under the FDIA, when the FDIC is appointed conservator or receiver of an IDI, contracting parties cannot terminate agreements with the IDI because of the insolvency itself or the appointment of

[1] For ease of reference, the Interim Final Covered Bond Policy Statement, published on April 23, 2008, will be referred to as the Interim Policy Statement. The Final Covered Bond Policy Statement will be referred to as the Policy Statement.

[2] The FDIC understands that certain potential issuers may propose a different structure that does not involve the use of an SPV. The FDIC expresses no opinion about the appropriateness of SPV or so-called ''direct issuance'' covered bond structures, although both may comply with this Statement of Policy.

the conservator or receiver. In addition, contracting parties must obtain the FDIC's consent during the forty-five day period after appointment of FDIC as conservator, or during the ninety day period after appointment of FDIC as receiver before, among other things, terminating any contract or liquidating any collateral pledged for a secured transaction.[3] During this period, the FDIC must still comply with otherwise enforceable provisions of the contract. The FDIC also may terminate or repudiate any contract of the IDI within a reasonable time after the FDIC's appointment as conservator or receiver if the conservator or receiver determines that the agreement is burdensome and that the repudiation will promote the orderly administration of the IDI's affairs.[4]

As conservator or receiver for an IDI, the FDIC has three options in responding to a properly structured covered bond transaction of the IDI: (1) Continue to perform on the covered bond transaction under its terms; (2) pay off the covered bonds in cash up to the value of the pledged collateral; or (3) allow liquidation of the pledged collateral to pay off the covered bonds. If the FDIC adopts the first option, it would continue to make the covered bond payments as scheduled. The second or third options would be triggered if the FDIC repudiated the transaction or if a monetary default occurred. In both cases, the par value of the covered bonds plus interest accrued to the date of the appointment of the FDIC as conservator or receiver would be paid in full up to the value of the collateral. If the value of the pledged collateral exceeded the total amount of all valid claims held by the secured parties, this excess value or over collateralization would be returned to the FDIC, as conservator or receiver, for distribution as mandated by the FDIA. On the other hand, if there were insufficient collateral pledged to cover all valid claims by the secured parties, the amount of the claims in excess of the pledged collateral would be unsecured claims in the receivership.

While the FDIC can repudiate the underlying contract, and thereby terminate any continuing obligations under that contract, the FDIA prohibits the FDIC, as conservator or receiver from avoiding any legally enforceable or perfected security interest in the assets of the IDI unless the interest was taken in contemplation of the IDI's insolvency or with the intent to hinder, delay, or defraud the IDI or its creditors.[5] This statutory provision ensures protection for the valid claims of secured creditors up to the value of the pledged collateral. After a default or repudiation, the FDIC as conservator or receiver may either pay resulting damages in cash up to the value of the collateral or turn over the collateral to the secured party for liquidation. For example, if the conservator or receiver repudiated a covered bond transaction, as discussed in Part II below, it would pay damages limited to par value of the covered bonds and accrued interest up to the date of appointment of the conservator or receiver, if sufficient collateral was in the cover pool, or turn over the collateral for liquidation with the conservator or receiver recovering any proceeds in excess of those damages. In liquidating any collateral for a covered bond transaction, it would be essential that the secured party liquidate the collateral in a commercially reasonable and expeditious manner taking into account the then-existing market conditions.

As noted above, existing covered bond transactions by U.S. issuers have used SPVs. However, nothing in the Policy Statement requires the use of an SPV. Some questions have been posed about the treatment of a subsidiary or SPV after appointment of the FDIC as conservator or receiver. The FDIC applies well-defined standards to determine whether to treat such entities as ''separate'' from the IDI. If a subsidiary or SPV, in fact, has fulfilled all requirements for treatment as a ''separate'' entity under applicable law, the FDIC as conservator or receiver has not applied its statutory powers to the subsidiary's or SPV's contracts with third parties. While the determination of whether a subsidiary or SPV has been organized and maintained as a separate entity from the IDI must be determined based on the specific facts and circumstances, the standards for such decisions are set forth in generally applicable judicial decisions and in the FDIC's regulation governing subsidiaries of insured state banks, 12 CFR 362.4.

The requests to the FDIC for guidance have focused principally on the conditions under which the FDIC would grant consent to obtain collateral for a covered bond transaction before the expiration of the forty-five day period after appointment of a conservator or the ninety day period after appointment of a receiver. IDIs interested in issuing covered bonds have expressed concern that the requirement to seek the FDIC's consent before exercising on the collateral after a breach could interrupt payments to the covered bond obligee for as long as 90 days. IDIs can provide for additional liquidity or other hedges to accommodate this potential risk to the continuity of covered bond payments but at an additional cost to the transaction. Interested parties requested that the FDIC provide clarification about how FDIC would apply the consent requirement with respect to covered bonds. Accordingly, the FDIC has determined to issue this Final Covered Bond Policy Statement in order to provide covered bond issuers with final guidance on how the FDIC will treat covered bonds in a conservatorship or receivership.

II. Overview of the Comments

The FDIC received approximately 130 comment letters on the Interim Policy Statement; these included comments from national banks, Federal Home Loan Banks, industry groups and individuals.

Most commenters encouraged the FDIC to adopt the Policy Statement to clarify how the FDIC would treat covered bonds in the case of a conservatorship or receivership and, thereby, facilitate the development of the U.S. covered bond market. The more detailed comments focused on one or more of the following categories of issues: (1) The FDIC's discretion regarding covered bonds that do not comply with the Policy Statement; (2) application to covered bonds completed prior to the Policy Statement; (3) the limitation of the Policy Statement to covered bonds not exceeding 4 percent of liabilities; (4) the eligible collateral for the cover pools; (5) the measure of damages provided in the event of default or repudiation; (6) the covered bond term limit; and (7) federal home loan bank advances and assessments.

Certain banks and industry associations sought clarification about the treatment of covered bonds that do not comply with the Policy Statement by the FDIC as conservator or receiver. Specifically, commenters asked the FDIC to clarify that if a covered bond issuance is not in conformance with the Policy Statement, the FDIC retains discretion to grant consent prior to expiration of the 45 or 90 day period on a case-by-case basis. Under Section 11(e)(13)(C) of the FDIA, the exercise of any right or power to terminate, accelerate, declare a default, or otherwise affect any contract of the IDI, or to take possession of any property of the IDI, requires the consent of the conservator or receiver, as appropriate,

[3] *See* 12 U.S.C. 1821(e)(13)(C).

[4] *See* 12 U.S.C. 1821(e)(3) and (13). These provisions do not apply in the manner stated to ''qualified financial contracts'' as defined in Section 11(e) of the FDI Act. *See* 12 U.S.C. 1821(e)(8).

[5] *See* 12 U.S.C. 1821(e)(12).

during the 45-day period or 90-day period after the date of the appointment of the conservator or receiver, as applicable. By the statutory terms, the conservator or receiver retains the discretion to give consent on a case-by-case basis after evaluation by the FDIC upon the failure of the issuer.

Comments from banks who issued covered bonds prior to the Policy Statement requested either 'grandfathering' of preexisting covered bonds or an advance determination by the FDIC before any appointment of a conservator or receiver that specific preexisting covered bonds qualified under the Policy Statement. After carefully considering the comments, the FDIC has determined that to 'grandfather' or otherwise permit mortgages or other collateral that do not meet the specific requirements of the Policy Statement to support covered bonds would not promote stable and resilient covered bonds as encompassed within the Policy Statement. If preexisting covered bonds, and their collateral, otherwise qualify under the standards specified in the Policy Statement, those covered bonds would be eligible for the expedited access to collateral provided by the Policy Statement.

A number of commenters requested that the limitation of eligible covered bonds to no more than 4 percent of an IDI's total liabilities should be removed or increased. Commenters also noted that other countries applying a cap have based the limitation on assets, not liabilities. The Policy Statement applies to covered bond issuances that comprise no more than 4 percent of an institution's total liabilities since, in part, as the proportion of secured liabilities increases, the total unpledged assets available to satisfy the claims of uninsured depositors and other creditors from the Deposit Insurance Fund decrease. As a result, the FDIC must focus on the share of an IDI's liabilities that are secured by collateral and balance the additional potential losses in the failure of an IDI against the benefits of increased liquidity for open institutions. The 4 percent limitation under the Policy Statement is designed to permit the FDIC, and other regulators, an opportunity to evaluate the development of the covered bond market within the financial system of the United States, which differs in many respects from that in other countries deploying covered bonds. Consequently, while changes may be considered to this limitation as the covered bond market develops, the FDIC has decided not to make any change at this time.

A number of commenters sought expansion of the mortgages defined as ''eligible mortgages'' and the expansion of collateral for cover pools to include other assets, such as second-lien home equity loans and home equity lines of credit, credit card receivables, mortgages on commercial properties, public sector debt, and student loans. Other commenters requested that ''eligible mortgages'' should be defined solely by their loan-to-value (LTV) ratios. After considering these comments, the FDIC has determined that its interests in efficient resolution of IDIs, as well as in the initial development of a resilient covered bond market that can provide reliable liquidity for well-underwritten mortgages, support retention of the limitations on collateral for qualifying covered bonds in the Interim Policy Statement. Recent market experience demonstrates that many mortgages that would not qualify under the Policy Statement, such as low documentation mortgages, have declined sharply in value as credit conditions have deteriorated. Some of the other assets proposed are subject to substantial volatility as well, while others would not specifically support additional liquidity for well-underwritten residential mortgages. As noted above, certain provisions of the Policy Statement may be reviewed and reconsidered as the U.S. covered bond market develops.

With regard to the comments that LTV be used as a guide to determine an ''eligible mortgage,'' the FDIC does not believe that LTV can substitute for strong underwriting criteria to ensure sustainable mortgages. In response to the comments, and the important role that LTV plays in mortgage analysis, the Policy Statement will urge issuers to disclose LTV for mortgages in the cover pool to enhance transparency for the covered bond market and promote stable cover pools. However, no specific LTV limitation will be imposed.

Two commenters suggested that the Policy Statement should be clarified to permit the substitution of cash as cover pool collateral. The Policy Statement has been modified to allow for the substitution of cash and Treasury and agency securities. The substitution of such collateral does not impair the strength of the cover pool and may be an important tool to limit short-term strains on issuing IDIs if eligible mortgages or AAA-rated mortgage securities must be withdrawn from the cover pool.

A number of commenters requested guidance on the calculation of damages the receiver will pay to holders of covered bonds in the case of repudiation or default. Under 12 U.S.C. 1821(e)(3), the liability of the conservator or receiver for the disaffirmance or repudiation of any contract is limited to ''actual direct compensatory damages'' and determined as of the date of appointment of the conservator or receiver. In the repudiation of contracts, such damages generally are defined by the amount due under the contract repudiated, but excluding any amounts for lost profits or opportunities, other indirect or contingent claims, pain and suffering, and exemplary or punitive damages. Under the Policy Statement, the FDIC agrees that ''actual direct compensatory damages'' due to bondholders, or their representative(s), for repudiation of covered bonds will be limited to the par value of the bonds plus accrued interest as of the date of appointment of the FDIC as conservator or receiver. The FDIC anticipates that IDIs issuing covered bonds, like other obligations bearing interest rate or other risks, will undertake prudent hedging strategies for such risks as part of their risk management program.

Many commenters suggested that the 10-year term limit should be removed to permit longer-term covered bond maturities. After reviewing the comments, the FDIC agrees that longer-term covered bonds should not pose a significant, additional risk and may avoid short-term funding volatility. Therefore, the FDIC has revised the Interim Policy Statement by increasing the term limit for covered bonds from 10 years to 30 years.

A number of the Federal Home Loan Banks, and their member institutions, objected to the inclusion of FHLB advances in the definition of ''secured liabilities,'' any imposed cap on such advances, and any change in assessment rates. Under 12 CFR part 360.2 (Federal Home Loan Banks as Secured Creditors), secured liabilities include loans from the Federal Reserve Bank discount window, Federal Home Loan Bank (FHLB) advances, repurchase agreements, and public deposits. However, the Policy Statement does not impose a cap on FHLB advances and has no effect on an IDI's ability to obtain FHLB advances or its deposit insurance assessments. The Policy Statement solely addresses covered bonds.

However, as noted above, where an IDI relies very heavily on secured liabilities to finance its lending and other business activities, it does pose a greater risk of loss to the Deposit Insurance Fund in any failure. Should the covered bond market develop as a significant source of funding for IDIs, and should that development create

substantial increases in an IDI's reliance on secured funding, it would increase the FDIC's losses in a failure and perhaps outweigh the benefits of improved liquidity. As a result, it is appropriate for the FDIC to consider the risks of such increased losses. Consideration of these risks may occur in a possible future request for comments on secured liabilities, but they are not addressed in this Policy Statement.

III. Final Statement of Policy

For the purposes of this final Policy Statement, a ''covered bond'' is defined as a non-deposit, recourse debt obligation of an IDI with a term greater than one year and no more than thirty years, that is secured directly or indirectly by a pool of eligible mortgages or, not exceeding ten percent of the collateral, by AAA-rated mortgage bonds. The term ''covered bond obligee'' is the entity to which the IDI is indebted.

To provide guidance to potential covered bond issuers and investors, while allowing the FDIC to evaluate the potential benefits and risks that covered bond transactions may pose to the deposit insurance fund in the U.S. mortgage market, the application of the policy statement is limited to covered bonds that meet the following standards.

This Policy Statement only applies to covered bond issuances made with the consent of the IDI's primary federal regulator in which the IDI's total covered bond obligations at such issuance comprise no more than 4 percent of an IDI's total liabilities. The FDIC is concerned that unrestricted growth while the FDIC is evaluating the potential benefits and risks of covered bonds could excessively increase the proportion of secured liabilities to unsecured liabilities. The larger the balance of secured liabilities on the balance sheet, the smaller the value of assets that are available to satisfy depositors and general creditors, and consequently the greater the potential loss to the Deposit Insurance Fund. To address these concerns, the policy statement is limited to covered bonds that comprise no more than 4 percent of a financial institution's total liabilities after issuance.

In order to limit the risks to the deposit insurance fund, application of the Policy Statement is restricted to covered bond issuances secured by perfected security interests under applicable state and federal law on performing eligible mortgages on one-to-four family residential properties, underwritten at the fully indexed rate and relying on documented income, a limited volume of AAA-rated mortgage securities, and certain substitution collateral. The Policy Statement provides that the mortgages shall be underwritten at the fully indexed rate relying on documented income, and comply with existing supervisory guidance governing the underwriting of residential mortgages, including the Interagency Guidance on Non-Traditional Mortgage Products, October 5, 2006, and the Interagency Statement on Subprime Mortgage Lending, July 10, 2007, and such additional guidance applicable at the time of loan origination. In addition, the Policy Statement requires that the eligible mortgages and other collateral pledged for the covered bonds be held and owned by the IDI. This requirement is designed to protect the FDIC's interests in any over collateralization and avoid structures involving the transfer of the collateral to a subsidiary or SPV at initiation or prior to any IDI default under the covered bond transaction.

The FDIC recognizes that some covered bond programs include mortgage-backed securities in limited quantities. Staff believes that allowing some limited inclusion of AAA-rated mortgage-backed securities as collateral for covered bonds during this interim, evaluation period will support enhanced liquidity for mortgage finance without increasing the risks to the deposit insurance fund. Therefore, covered bonds that include up to 10 percent of their collateral in AAA-rated mortgage securities backed solely by mortgage loans that are made in compliance with guidance referenced above will meet the standards set forth in the Policy Statement. In addition, substitution collateral for the covered bonds may include cash and Treasury and agency securities as necessary to prudently manage the cover pool. Securities backed by tranches in other securities or assets (such as Collateralized Debt Obligations) are not considered to be acceptable collateral.

The Policy Statement provides that the consent of the FDIC, as conservator or receiver, is provided to covered bond obligees to exercise their contractual rights over collateral for covered bond transactions conforming to the Interim Policy Statement no sooner than ten (10) business days after a monetary default on an IDI's obligation to the covered bond obligee, as defined below, or ten (10) business days after the effective date of repudiation as provided in written notice by the conservator or receiver.

The FDIC anticipates that future developments in the marketplace may present interim final covered bond structures and structural elements that are not encompassed within this Policy Statement and therefore the FDIC may consider future amendment (with appropriate notice) of this Policy Statement as the U.S. covered bond market develops.

IV. Scope and Applicability

This Policy Statement applies to the FDIC in its capacity as conservator or receiver of an insured depository institution.

This Policy Statement only addresses the rights of the FDIC under 12 U.S.C. 1821(e)(13)(C). A previous policy statement entitled ''Statement of Policy on Foreclosure Consent and Redemption Rights,'' August 17, 1992, separately addresses consent under 12 U.S.C. 1825(b), and should be separately consulted.

This Policy Statement does not authorize, and shall not be construed as authorizing, the waiver of the prohibitions in 12 U.S.C. 1825(b)(2) against levy, attachment, garnishment, foreclosure or sale of property of the FDIC, nor does it authorize or shall it be construed as authorizing the attachment of any involuntary lien upon the property of the FDIC. The Policy Statement provides that it shall not be construed as waiving, limiting or otherwise affecting the rights or powers of the FDIC to take any action or to exercise any power not specifically mentioned, including but not limited to any rights, powers or remedies of the FDIC regarding transfers taken in contemplation of the institution's insolvency or with the intent to hinder, delay or defraud the institution or the creditors of such institution, or that is a fraudulent transfer under applicable law.

The Board of Directors of the FDIC has adopted a final Covered Bond Policy Statement. The text of the Covered Bond Policy Statement follows:

Covered Bond Policy Statement

Background

Insured depository institutions (''IDIs'') are showing increasing interest in issuing covered bonds. Although covered bond structures vary, in all covered bonds the IDI issues a debt obligation secured by a pledge of assets, typically mortgages. The debt obligation is either a covered bond sold directly to investors, or mortgage bonds which are sold to a trust or similar entity (''special purpose vehicle'' or ''SPV'') as collateral for the SPV to sell covered bonds to investors. In either case, the IDI's debt obligation is secured by a perfected first

priority security interest in pledged mortgages, which remain on the IDI's balance sheet. Proponents argue that covered bonds provide new and additional sources of liquidity and diversity to an institution's funding base. Based upon the information available to date, the FDIC agrees that covered bonds may be a useful liquidity tool for IDIs as part of an overall prudent liquidity management framework and the parameters set forth in this policy statement. Because of the increasing interest IDIs have in issuing covered bonds, the FDIC has determined to issue this policy statement with respect to covered bonds.

(a) Definitions.

(1) For the purposes of this policy statement, a ''covered bond'' shall be defined as a non-deposit, recourse debt obligation of an IDI with a term greater than one year and no more than thirty years, that is secured directly or indirectly by perfected security interests under applicable state and federal law on assets held and owned by the IDI consisting of eligible mortgages, or AAA-rated mortgage-backed securities secured by eligible mortgages if for no more than ten percent of the collateral for any covered bond issuance or series. Such covered bonds may permit substitution of cash and United States Treasury and agency securities for the initial collateral as necessary to prudently manage the cover pool.

(2) The term ''eligible mortgages'' shall mean performing first-lien mortgages on one-to-four family residential properties, underwritten at the fully indexed rate [6] and relying on documented income, and complying with existing supervisory guidance governing the underwriting of residential mortgages, including the Interagency Guidance on Non-Traditional Mortgage Products, October 5, 2006, and the Interagency Statement on Subprime Mortgage Lending, July 10, 2007, and such additional guidance applicable at the time of loan origination. Due to the predictive quality of loan-to-value ratios in evaluating residential mortgages, issuers should disclose loan-to-value ratios for the cover pool to enhance transparency for the covered bond market.

(3) The term ''covered bond obligation,'' shall be defined as the portion of the covered bond transaction that is the insured depository institution's debt obligation, whether to the SPV, mortgage bond trustee, or other parties.

(4) The term ''covered bond obligee'' is the entity to which the insured depository institution is indebted.

(5) The term ''monetary default'' shall mean the failure to pay when due (taking into account any period for cure of such failure or for forbearance provided under the instrument or in law) sums of money that are owed, without dispute, to the covered bond obligee under the terms of any *bona fide* instrument creating the obligation to pay.

(6) The term ''total liabilities'' shall mean, for banks that file quarterly Reports of Condition and Income (Call Reports), line 21 ''Total liabilities'' (Schedule RC); and for thrifts that file quarterly Thrift Financial Reports (TFRs), line SC70 ''Total liabilities'' (Schedule SC).

(b) Coverage. This policy statement only applies to covered bond issuances made with the consent of the IDI's primary federal regulator in which the IDI's total covered bond obligation as a result of such issuance comprises no more than 4 percent of an IDI's total liabilities, and only so long as the assets securing the covered bond obligation are eligible mortgages or AAA-rated mortgage securities on eligible mortgages, if not exceeding 10 percent of the collateral for any covered bond issuance, Substitution for the initial cover pool collateral may include cash and Treasury and agency securities as necessary to prudently manage the cover pool.

(c) Consent to certain actions. The FDIC as conservator or receiver consents to a covered bond obligee's exercise of the rights and powers listed in 12 U.S.C. 1821(e)(13)(C), and will not assert any rights to which it may be entitled pursuant to 12 U.S.C. 1821(e)(13)(C), after the expiration of the specified amount of time, and the occurrence of the following events:

(1) If at any time after appointment the conservator or receiver is in a monetary default to a covered bond obligee, as defined above, and remains in monetary default for ten (10) business days after actual delivery of a written request to the FDIC pursuant to paragraph (d) hereof to exercise contractual rights because of such monetary default, the FDIC hereby consents pursuant to 12 U.S.C. 1821(e)(13)(C) to the covered bond obligee's exercise of any such contractual rights, including liquidation of properly pledged collateral by commercially reasonable and expeditious methods taking into account existing market conditions, provided no involvement of the receiver or conservator is required.

(2) If the FDIC as conservator or receiver of an insured depository institution provides a written notice of repudiation of a contract to a covered bond obligee, and the FDIC does not pay the damages due pursuant to 12 U.S.C. 1821(e) by reason of such repudiation within ten (10) business days after the effective date of the notice, the FDIC hereby consents pursuant to 12 U.S.C. 1821(e)(13)(C) for the covered bond obligee's exercise of any of its contractual rights, including liquidation of properly pledged collateral by commercially reasonable and expeditious methods taking into account existing market conditions, provided no involvement of the receiver or conservator is required.

(3) The liability of a conservator or receiver for the disaffirmance or repudiation of any covered bond issuance obligation, or for any monetary default on, any covered bond issuance, shall be limited to the par value of the bonds issued, plus contract interest accrued thereon to the date of appointment of the conservator or receiver.

(d) Consent. Any party requesting the FDIC's consent as conservator or receiver pursuant to 12 U.S.C. 1821(e)(13)(C) pursuant to this policy statement should provide to the Deputy Director, Division of Resolutions and Receiverships, Federal Deposit Insurance Corporation, 550 17th Street, NW., F–7076, Washington DC 20429–0002, a statement of the basis upon which such request is made, and copies of all documentation supporting such request, including without limitation a copy of the applicable contract and of any applicable notices under the contract.

(e) Limitations. The consents set forth in this policy statement do not act to waive or relinquish any rights granted to the FDIC in any capacity, pursuant to any other applicable law or any agreement or contract. Nothing contained in this policy alters the claims priority of collateralized obligations. Nothing contained in this policy statement shall be construed as permitting the avoidance of any legally enforceable or perfected security interest in any of the assets of an insured depository institution, provided such interest is not taken in contemplation of the institution's insolvency, or with the intent to hinder,

[6] The fully indexed rate equals the index rate prevailing at origination plus the margin to be added to it after the expiration of an introductory interest rate. For example, assume that a loan with an initial fixed rate of 7% will reset to the six-month London Interbank Offered Rate (LIBOR) plus a margin of 6%. If the six-month LIBOR rate equals 5.5%, lenders should qualify the borrower at 11.5% (5.5% + 6%), regardless of any interest rate caps that limit how quickly the fully indexed rate may be reached.

delay or defraud the IDI or its creditors. Subject to the provisions of 12 U.S.C. 1821(e)(13)(C), nothing contained in this policy statement shall be construed as permitting the conservator or receiver to fail to comply with otherwise enforceable provisions of a contract or preventing a covered bond obligee's exercise of any of its contractual rights, including liquidation of properly pledged collateral by commercially reasonable methods.

(f) No waiver. This policy statement does not authorize, and shall not be construed as authorizing the waiver of the prohibitions in 12 U.S.C. 1825(b)(2) against levy, attachment, garnishment, foreclosure, or sale of property of the FDIC, nor does it authorize nor shall it be construed as authorizing the attachment of any involuntary lien upon the property of the FDIC. Nor shall this policy statement be construed as waiving, limiting or otherwise affecting the rights or powers of the FDIC to take any action or to exercise any power not specifically mentioned, including but not limited to any rights, powers or remedies of the FDIC regarding transfers taken in contemplation of the institution's insolvency or with the intent to hinder, delay or defraud the institution or the creditors of such institution, or that is a fraudulent transfer under applicable law.

(g) No assignment. The right to consent under 12 U.S.C. 1821(e)(13)(C) may not be assigned or transferred to any purchaser of property from the FDIC, other than to a conservator or bridge bank.

(h) Repeal. This policy statement may be repealed by the FDIC upon 30 days notice provided in the **Federal Register**, but any repeal shall not apply to any covered bond issuance made in accordance with this policy statement before such repeal.

By order of the Board of Directors.

Dated at Washington, DC this 22d day of July, 2008.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E8–17168 Filed 7–25–08; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: The Federal Maritime Commission (FMC or Commission) is giving public notice that the agency has submitted to OMB for approval the information collections described in this notice. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before August 27, 2008 to be assured of consideration.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, *Attention:* Desk Officer for FMC, 725 17th Street, NW., Washington, DC 20503, *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Jane Gregory at telephone number 202–523–5800 or *jgregory@fmc.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the FMC invites the general public and other Federal agencies to comment on proposed information collections. On May 13, 2008, the FMC published a notice and request for comments in the **Federal Register** (73 FR 27537) regarding the agency's request for continued approval from OMB for information collections as required by the Paperwork Reduction Act of 1995. The FMC received no comments on any of the requests for extensions of OMB clearance. The FMC has submitted the described information collections to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Information Collections Open for Comment

Title: 46 CFR part 540—Application for Certificate of Financial Responsibility/Form FMC–131.

OMB Approval Number: 3072–0012 (Expires September 30, 2008).

Abstract: Sections 2 and 3 of Public Law 89–777 (46 U.S.C. 44105 and 44106) require owners or charterers of passenger vessels with 50 or more passenger berths or stateroom accommodations and embarking passengers at United Stated ports and territories to establish their financial responsibility to meet liability incurred for death or injury to passengers and other persons, and to indemnify passengers in the event of nonperformance of transportation. The Commission's Rules at 46 CFR part 540 implement Public Law 89–777 and specify financial responsibility coverage requirements for such owners and charterers.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The information will be used by the Commission's staff to ensure that passenger vessel owners and charterers have evidenced financial responsibility to indemnify passengers and others in the event of nonperformance or casualty.

Frequency: This information is collected when applicants apply for a certificate or when existing certificants change any information in their application forms.

Type of Respondents: The types of respondents are owners, charterers and operators of passenger vessels with 50 or more passenger berths that embark passengers from U.S. ports or territories.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 50.

Estimated Time Per Response: The time per response ranges from .5 to 8 person-hours for reporting and recordkeeping requirements contained in the rules, and 8 person-hours for completing Application Form FMC–131.

Total Annual Burden: The Commission estimates the total person-hour burden at 1,478 person-hours.

Title: 46 CFR part 565—Controlled Carriers.

OMB Approval Number: 3072–0060 (Expires September 30, 2008).

Abstract: Section 9 of the Shipping Act of 1984 (46 U.S.C. 40701–40706) requires that the FMC monitor the practices of controlled carriers to ensure that they do not maintain rates or charges in their tariffs and service contracts that are below a level that is just and reasonable; nor establish, maintain or enforce unjust or unreasonable classifications, rules or regulations in those tariffs or service contracts which result or are likely to result in the carriage or handling of cargo at rates or charges that are below a just and reasonable level. 46 CFR part

565 establishes the method by which the Commission determines whether a particular ocean common carrier is a controlled carrier subject to section 9 of the Shipping Act of 1984. When a government acquires a controlling interest in an ocean common carrier, or when a controlled carrier newly enters a United States trade, the Commission's rules require that such a carrier notify the Commission of these events.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The Commission uses these notifications in order to effectively discharge its statutory duty to determine whether a particular ocean common carrier is a controlled carrier and therefore subject to the requirements of section 9 of the Shipping Act of 1984.

Frequency: The submission of notifications from controlled carriers is not assigned to a specific time frame by the Commission; they are submitted as circumstances warrant. The Commission only requires notification when a majority portion of an ocean common carrier becomes owned or controlled by a government, or when a controlled carrier newly begins operation in any United States trade.

Type of Respondents: Controlled carriers are ocean common carriers which are owned or controlled by a government.

Number of Annual Respondents: Although it is estimated that only 5 of the 8 currently classified controlled carriers may respond in any given year, because this is a rule of general applicability, the Commission considers the number of annual respondents to be 8. Classifications are reviewed periodically to determine current status of respondents and to increase or decrease the number of controlled carriers based on new circumstances. The FMC cannot anticipate when a new carrier may enter the United States trade; therefore, the number of annual respondents may fluctuate from year to year and could increase to 10 or more at any time.

Estimated Time Per Response: The estimated time for compliance is 7 person-hours per year.

Total Annual Burden: The Commission estimates the person-hour burden required to make such notifications at 56 person-hours per year.

Title: 46 CFR part 525—Marine Terminal Operator Schedules and Related Form FMC–1.

OMB Approval Number: 3072–0061 (Expires September 30, 2008).

Abstract: Section 8(f) of the Shipping Act of 1984 (46 U.S.C. 40501) provides that a marine terminal operator (MTO) may make available to the public a schedule of its rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal, subject to section 10(d)(1) of the Act, 46 U.S.C. 41102. The Commission's rules governing MTO schedules are set forth at 46 CFR part 525.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The Commission uses information obtained from Form FMC–1 to determine the organization name, organization number, home office address, name and telephone number of the firm's representatives and the location of MTO schedules of rates, regulations and practices, and publisher, should the MTOs determine to make their schedules available to the public, as set forth in section 8(f) of the Shipping Act.

Frequency: This information is collected prior to an MTO's commencement of its marine terminal operations.

Type of Respondents: Persons operating as MTOs.

Number of Annual Respondents: The Commission estimates the respondent universe at 258, of which 153 opt to make their schedules available to the public.

Estimated Time Per Response: The time per response for completing Form FMC–1 averages .5 person hours, and approximately 5 person-hours for related MTO schedules.

Total Annual Burden: The Commission estimates the total person-hour burden at 894 person-hours.

Title: 46 CFR Part 520—Carrier Automated Tariff Systems and Related Form FMC–1.

OMB Approval Number: 3072–0064 (Expires September 30, 2008).

Abstract: Except with respect to certain specified commodities, section 8(a) of the Shipping Act of 1984 (46 U.S.C. 40501) requires that each common carrier and conference shall keep open to public inspection, in an automated tariff system, tariffs showing its rates, charges, classifications, rules, and practices between all ports and points on its own route and on any through transportation route that has been established. In addition, individual carriers or agreements among carriers are required to make available in tariff format certain enumerated essential terms of their service contracts. 46 U.S.C. 40502. The Commission is responsible for reviewing the accessibility and accuracy of automated tariff systems, in accordance with its regulations set forth at 46 CFR Part 520.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The Commission uses information obtained from Form FMC–1 to ascertain the location of common carrier and conference tariff publications, and to access their provisions regarding rules, rates, charges and practices.

Frequency: This information is collected when common carriers or conferences publish tariffs.

Type of Respondents: Persons desiring to operate as common carriers or conferences.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 4,200.

Estimated Time Per Response: The time per response ranges from .5 to 2 person-hours for reporting and recordkeeping requirements contained in the rules, and .5 person-hours for completing Form FMC–1.

Total Annual Burden: The Commission estimates the total person-hour burden at 436,500 person-hours.

Title: 46 CFR Part 530—Service Contracts and Related Form FMC–83.

OMB Approval Number: 3072–0065 (Expires September 30, 2008).

Abstract: The Shipping Act of 1984, 46 U.S.C. 40501(a)–(e), requires service contracts, except those dealing with bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper or paper waste, and their related amendments and notices to be filed confidentially with the Commission.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The Commission monitors service contract filings for acts prohibited by the Shipping Act of 1984.

Frequency: The Commission has no control over how frequently service contracts are entered into; this is solely a matter between the negotiating parties. When parties enter into a service contract, it must be filed with the Commission.

Type of Respondents: Parties that enter into service contracts are ocean common carriers and agreements among ocean common carriers on the one hand, and shippers or shipper's associations on the other.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 143.

Estimated Time Per Response: The time per response ranges from .5 to 16 person-hours for reporting and recordkeeping requirements contained in the rules, and .5 person-hours for completing Form FMC–83.

Total Annual Burden: The Commission estimates the total person-hour burden at 617,015 person-hours.

Title: 46 CFR Part 531—NVOCC Service Arrangements and Related Form FMC–78.

OMB Approval Number: 3072–0070 (Expires September 30, 2008).

Abstract: The Shipping Act of 1984, 46 U.S.C. 40103, authorizes the FMC to exempt by rule ''any class of agreements between persons subject to the Act or any specified activity of those persons from any requirement of this Act if it finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce. The Commission may attach conditions to any exemption and may, by order, revoke any exemption.'' 46 CFR Part 531 allows non-vessel-operating common carriers (NVOCCs) and shippers' associations with NVOCC members to act as shipper parties in NVOCC Service Arrangements (NSAs), and to be exempt from certain tariff publication requirements of the Shipping Act provided the carriage in question is done pursuant to an NSA filed with the Commission and the essential terms are published in the NVOCC's tariff.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The Commission uses filed NSAs and associated data for monitoring and investigatory purposes and, in its proceedings, to adjudicate related issues raised by private parties.

Frequency: The filing of NSAs is not assigned a specific time by the Commission; NSAs are filed as they may be entered into by private parties. When parties enter into an NSA, it must be filed with the Commission.

Type of Respondents: Parties that enter into NSAs are NVOCCs and shippers' associations with NVOCC members.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 533.

Estimated Time Per Response: The time per response ranges from .5 to 8 person-hours for reporting and recordkeeping requirements contained in the rules, and 1 person-hour for completing Form FMC–78.

Total Annual Burden: The Commission estimates the total person-hour burden at 13,082 person-hours.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E8–17138 Filed 7–25–08; 8:45 am]

BILLING CODE 6730–01–P

GENERAL SERVICES ADMINISTRATION

Use of Voluntary Consensus Standards in Personal Property Management; Notice of GSA Bulletin FMR B–18

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Notice of a bulletin.

SUMMARY: This notice announces GSA Federal Management Regulation (FMR) Bulletin B–18 which provides guidance to Federal agencies on the use of voluntary consensus standards in managing the personal property assets under their control. This bulletin is discretionary to executive agencies. GSA Bulletin FMR B–18 may be found at *www.gsa.gov/fmrbulletin*.

DATES: The bulletin announced in this notice is effective July 17, 2008.

FOR FURTHER INFORMATION CONTACT For clarification of content, contact General Services Administration, Office of Governmentwide Policy, Office of Travel, Transportation and Asset Management, at (202) 501–1777. Please cite Bulletin FMR B–18.

SUPPLEMENTARY INFORMATION:

A. Background

Public Law 104–113, the ''National Technology Transfer and Advancement Act of 1995,'' was enacted, in part, to encourage the use of voluntary consensus technical standards in lieu of government-unique standards by Federal agencies except when inconsistent with applicable law or otherwise impractical. The Office of Management and Budget (OMB) has issued OMB Circular A–119 to provide additional guidance. Subsequently, the National Property Management Association (NPMA) and the American Society for Testing and Materials (ASTM), now ASTM International, entered into an agreement to develop voluntary consensus standards for property management activities. Voluntary consensus standards are a valuable tool for the personal property manager as they represent the collective wisdom of Federal and private sector experts covering topics not addressed in law or governmentwide regulations. This bulletin is discretionary to executive agencies.

This notice announces GSA Bulletin FMR B–18 which provides guidance to Federal agencies on the use of voluntary consensus standards in managing the personal property assets under their control.

B. Procedures

Bulletins regarding asset management are located on the Internet at *www.gsa.gov/fmrbulletin* as Federal Management Regulation (FMR) bulletins.

Dated: July 21, 2008.

Robert Holcombe,

Director, Personal Property Management Policy.

[FR Doc. E8–17184 Filed 7–25–08; 8:45 am]

BILLING CODE 6820–14–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Opportunity for a Hearing on Compliance of Texas State Plan Provisions Concerning Payments for Birthing Center Facility Services With Title XIX (Medicaid) of the Social Security Act

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of Opportunity for a Hearing.

SUMMARY: This notice announces the opportunity for an administrative hearing to be held on September 26, 2008 at the CMS Dallas Regional Office, 1301 Young Street, Room 1196, Dallas, Texas 75202, to consider whether Texas State plan provisions concerning payments for birthing center facility services comply with the requirements of the Social Security Act as discussed in the July 28, 2008 letter sent to the State and published herein.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the presiding officer by August 27, 2008.

FOR FURTHER INFORMATION CONTACT: Benjamin R. Cohen, Presiding Officer, CMS, 2520 Lord Baltimore Drive, Suite L, Baltimore, Maryland 21244, Telephone: (410) 786–3169.

SUPPLEMENTARY INFORMATION: This notice announces the opportunity for an administrative hearing concerning the finding of the Administrator of the Centers for Medicare & Medicaid Services (CMS) that the approved State plan under title XIX (Medicaid) of the Social Security Act (the Act) is not in compliance with the provisions of section 1902(a) of the Act. In particular, CMS has found that the State plan provides for separate payment for ''birthing center facility services.'' Birthing centers are not among the recognized provider types, nor are birthing center facility services a type of service within the scope of ''medical assistance'' under the framework for State Medicaid programs established in Federal law. Further, Federal financial participation is not available in expenditures for payments for birthing center facility services provided on or after September 1, 2008, subject to the opportunity for a hearing described below. This notice is being provided pursuant to the requirements of section 1904 of the Act, as implemented in part by Federal regulations at 42 CFR 430.35 and 42 CFR Part 430, Subpart D.

Birthing centers are not a recognized provider of services within the scope of ''medical assistance'' under section 1905(a) of the Act. In section 1905(a), Congress specified certain covered facility services, such as those provided by hospitals, clinics, or nursing facilities, but did not specify the services of birthing centers. Birthing centers are not any of those identified types of covered facilities (specifically, they do not meet the requirements to be considered ''clinics''). Thus, payment to birthing centers is not payment for ''medical assistance'' consistent with section 1905(a), and such payment therefore is not contemplated by the references to medical assistance at section 1902(a)(10) of the Act.

Moreover, section 1902(a)(32) requires that State plans make payment directly to the provider of the service, unless there is an assignment or contractual arrangement under which the provider turns over fees to an employer or permits a facility to bill on his/her behalf. Neither of these circumstances apply under the Texas State plan, which accords birthing center facilities payment independent of the nurse midwife practitioners whose services are covered under section 1905(a)(17) of the Act. While the Act would permit higher payments to nurse midwives practicing at birthing centers in order to recognize the higher costs that may be incurred by such nurse midwives, there is no statutory authority to provide for direct payment to birthing centers for facility services.

While CMS has approved State plan amendments to provide separate payment for birthing center facility services in the past, on further review of the above-referenced provisions, we do not believe that the statute allows for these payments. CMS has previously notified the State of this position through prior deferral action and disapproval of three Medicaid State plan amendments (SPAs 04–033(b), 06–004, and 07–011). The first two SPAs were disapproved on June 29, 2006, and the third on December 23, 2007. CMS has deferred claims for the Federal share totaling $43,507 for three quarters starting with the period ending June 30, 2006.

The notice to Texas announcing the opportunity for an administrative hearing on the issue of the compliance of the specified State plan provisions reads as follows:

Via Certified Mail—Return Receipt Requested

Mr. Chris Traylor, Associate Commissioner for Medicaid and Children's Health Insurance Program, Texas Health and Human Services Commission, P.O. Box 13247, Austin, TX 78711

Dear Mr. Traylor: This letter provides notice of our finding that the approved State plan under title XIX (Medicaid) of the Social Security Act (the Act) is not in compliance with the provisions of section 1902(a) of the Act. In particular, the Centers for Medicare & Medicaid Services (CMS) has found that the State plan provides for separate payment for ''birthing center facility services.'' Birthing centers are not among the recognized provider types, nor are birthing center facility services a type of service within the scope of ''medical assistance'' under the framework for State Medicaid programs established in Federal law. Further, Federal financial participation is not available in expenditures for payments for birthing center facility services provided on or after September 1, 2008, subject to the opportunity for a hearing described below. This notice is being provided pursuant to the requirements of section 1904 of the Act as implemented by Federal regulations at 42 CFR 430.35 and 42 CFR Part 430, Subpart D.

Birthing centers are not a recognized provider of services within the scope of ''medical assistance'' under section 1905(a) of the Act. In section 1905(a), Congress specified certain covered facility services, such as hospitals, clinics, or nursing facilities, but did not specify the services of birthing centers. Birthing centers are not any of those identified types of covered facilities (specifically, they do not meet the requirements to be considered ''clinics''). Thus, payment to birthing centers is not payment for medical assistance consistent with section 1905(a), and such payment, therefore, is not contemplated by the references to medical assistance at section 1902(a)(10) of the Act.

Moreover, section 1902(a)(32) requires that State plans make payment directly to the provider of the service, unless there is an assignment or contractual arrangement under which the provider turns over fees to an employer or permits a facility to bill on his/her behalf. Neither of these circumstances apply under the Texas State plan, which accords birthing center facilities payment independent of the nurse midwife practitioner whose services are covered under section 1905(a)(17) of the Act. While the Act would permit higher payments to nurse midwives practicing at birthing centers in order to recognize the higher costs that may be incurred by such nurse midwives, there is no statutory authority to provide for direct payment to birthing centers for facility services.

While CMS has approved State plan amendments to provide separate payment for birthing center facility services in the past, on further review of the above-referenced provisions, we do not believe that the statute allows for these payments. CMS has previously notified the State of this position through a deferral action and disapproval of three Medicaid State plan amendments (SPAs 04–033(b), 06–004, and 07–011). The first two SPAs were disapproved on June 29, 2006, and the third on December 23, 2007. CMS has deferred claims for the Federal share totaling $43,507 for three quarters starting with the period ending June 30, 2006.

For all of these reasons, and after consulting with the Secretary as required by 42 CFR 430.15(c)(2), I am taking compliance action on the State's birthing center facility payment.

If you are dissatisfied with this determination, you will have an opportunity for a hearing on [60 days after date of publication], in accordance with the procedure set forth in Federal regulations at 42 CFR Part 430, Subpart D. Your request for such a hearing may be sent to the designated hearing officer, Mr. Benjamin R. Cohen, Centers for Medicare & Medicaid Services, 2520 Lord Baltimore Drive, Suite L, Baltimore, Maryland 21244. If you have any questions or wish to discuss this determination further, please contact Mr. Bill Brooks, Associate Regional Administrator, Centers for Medicare & Medicaid Services, Region VI, Division of Medicaid and Children's Health, Department of Health and Human Services, 1301 Young Street, Room 827, Dallas, TX 75202.

Sincerely,

Kerry Weems,
Acting Administrator.

(Catalog of Federal Domestic Assistance program No. 13.714, Medicaid Assistance Program)

Dated: July 23, 2008.

Kerry Weems,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E8–17273 Filed 7–25–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the National Advisory Council for Complementary and Alternative Medicine (NACCAM) meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

A portion of 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/or contract proposals and the discussion could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Complementary and Alternative Medicine.

Date: September 12, 2008.

Closed: 8:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications and/or proposals.

Open: 11 a.m. to 4 p.m.

Agenda: Opening remarks by the Director of the National Center for Complementary and Alternative Medicine, presentation of a new research initiative, and other business of the Council.

Place: National Institutes of Health, Neuroscience Building, 6001 Executive Boulevard, Conference Rooms C & D, Bethesda, MD 20892.

Contact Person: Martin H. Goldrosen, PhD, Executive Secretary, National Center for Complementary, and Alternative Medicine, National Institutes of Health, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, (301) 594–2014.

The public comments session is scheduled from 3:30–4 p.m., but could change depending on the actual time spent on each agenda item. Each speaker will be permitted 5 minutes for their presentation. Interested individuals and representatives of organizations are requested to notify Dr. Martin H. Goldrosen, National Center for Complementary and Alternative Medicine, NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, Maryland, 20892, 301–594–2014, Fax: 301–480–9970. Letters of intent to present comments, along with a brief description of the organization represented, should be received no later than 5 p.m. on September 8, 2008. Only one representative of an organization may present oral comments. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting may be considered for oral presentation, if time permits, and at the discretion of the Chairperson. In addition, written comments may be submitted to Dr. Martin H. Goldrosen at the address listed above up to ten calendar days (September 22, 2008) following the meeting.

Copies of the meeting agenda and the roster of members will be furnished upon request by contacting Dr. Martin H. Goldrosen, Executive Secretary, NACCAM, National Center for Complementary and Alternative Medicine, National Institutes of Health, 6707 Democracy Boulevard, Suite 401, Bethesda, Maryland 20892, 301–594–2014, Fax 301–480–9970, or via e-mail at *naccames@mail.nih.gov*.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by nongovernment employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Dated: July 21, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–17137 Filed 7–25–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Mental Health Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and552b(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 Advisory Mental Health Council.

Date: September 18–19, 2008.

Closed: September 18, 2008, 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Room C/D/E, Rockville, MD 20852.

Open: September 19, 2008, 8:30 a.m. to 12:30 p.m.

Agenda: Presentation of NIMH Director's report and discussion on NIMH program and policy issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Contact Person: Jane A. Steinberg, PhD, Director, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9609, 301–443–5047.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nimh.nih.gov/council/advis.cfm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: July 21, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–17139 Filed 7–25–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Synthesis of Stable Isotope-Labeled Steroids as Internal Standards for the Measurement of Endogenous Steroid Hormones in Biologic Samples by Liquid Chromatography.

Date: August 26, 2008.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6130 Executive Boulevard, Conference Room 319, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Kenneth L. Bielat, PhD, Scientific Review Officer, Special Review Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7147, Bethesda, MD 20892–8329, 301–496–7576, *bielatk@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Altered Isoflavone Soybeans for Hormone-Responsive Cancer.

Date: September 8, 2008.

Time: 12:30 p.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Room 607, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Marvin L. Salin, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7073, Bethesda, MD 20892–8329, 301–496–0694, *msalin@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SPORE in Breast, Brain, GI, HN, Ovarian, and Pancreatic Cancers.

Date: September 24–25, 2008.

Time: 8 a.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: Shamala K. Srinivas, PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8123, Bethesda, MD 20892, 301–594–1224, *ss537t@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Discovery and Development.

Date: October 1–2, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, Double Tree Name Changed, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Caron Lyman, PhD, Scientific Review Officer, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Blvd, Room 8119, Bethesda, MD 20892–8328, 301–451–4761, *lymanc@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Clinical Studies I P01.

Date: October 6–7, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville Executive Mtg Center, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Majed M. Hamawy, PhD, MBA, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8135, Bethesda, MD 20892–8328, 301–594–5659, *mh101v@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Clinical Studies II P01.

Date: October 7, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, Double Tree Name Changed, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Peter J. Wirth, PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8131, Bethesda, MD 20892–8328, 301–496–7565, *pw2q@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Prevention, Control and Population Sciences.

Date: October 7–8, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, Double Tree Name Changed, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Wlodek Lopaczynski, MD, PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8131, Bethesda, MD 20892, 301–594–1402, *lopacw@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 22, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–17245 Filed 7–25–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Science and Technology Directorate

Notice of Public Meeting of the Project 25 Compliance Assessment Program Governing Board

AGENCY: Science and Technology Directorate, DHS.

ACTION: Notice of Public Meeting.

SUMMARY: The Department of Homeland Security's (DHS) Office for Interoperability and Compatibility (OIC) will hold a public meeting of its Project 25 (P25) Compliance Assessment Program (CAP) Governing Board (GB). The P25 CAP GB is composed of public sector officials who represent the collective interest of organizations that procure P25 equipment. The purpose of the meeting is to review and approve the proposed Compliance Assessment Bulletin(s).

If time permits, the P25 CAP GB will take oral public comments during the last ten minutes of the call. If you would like to provide oral comments (two minutes maximum), please indicate so when registering for the conference call. The P25 CAP GB also welcomes ongoing written feedback on the program. To provide your written comments anytime, please visit *http://www.safecomprogram.gov/SAFECOM/currentprojects/project25cap/*.

DHS OIC will post details of the meeting, including the agenda, ten

business days in advance of the meeting at *http://www.safecomprogram.gov.*

DATES: The meeting will take place on Thursday, August 14, 2008, from 2 p.m. to 3 p.m. (EST).

ADDRESSES: The session will take place via conference call. To listen, please send an e-mail to *david.keller@touchstone.com* or call 202–449–7142 by August 13 for access information.

FOR FURTHER INFORMATION CONTACT: Luke Klein-Berndt, Department of Homeland Security, Science and Technology Directorate, Office for Interoperability and Compatibility, Washington Navy Yard, 245 Murray Lane, SW., Building #410, Washington, DC 20528. *Telephone:* (202) 254–5332. *E-mail: Luke.Klein-Berndt@dhs.gov.*

SUPPLEMENTARY INFORMATION: Emergency responders—emergency medical services, fire personnel, and law enforcement officers—need to seamlessly exchange communications across disciplines and jurisdictions to successfully respond to day-to-day incidents and large-scale emergencies. P25 focuses on developing standards that allow radios and other components to interoperate, regardless of the manufacturer. In turn, these standards enable emergency responders to exchange critical communications with other disciplines and jurisdictions.

An initial goal of P25 is to specify formal standards for interfaces between the components of a land mobile radio (LMR) system; LMR systems are commonly used by emergency responders in portable handheld and mobile vehicle-mounted devices. Although formal standards are being developed, no process is currently in place to confirm that equipment advertised as P25-compliant meets all aspects of P25 standards.

To address discrepancies between P25 standards and industry equipment, Congress passed legislation calling for the creation of the P25 CAP. The P25 CAP is a partnership of the DHS Command, Control and Interoperability Division; the Department of Commerce's National Institute of Standards and Technology; industry; and the emergency response community.

The P25 CAP works to establish a process for ensuring that equipment complies with P25 standards and can interoperate across manufacturers. By providing manufacturers with a method to test their equipment for compliance with P25 standards, the P25 CAP helps emergency response officials make informed purchasing decisions. The program's initial focus is on the Common Air Interface, which allows for over-the-air compatibility between mobile and portable radios and tower equipment.

For more information on the program, please review OIC's *Charter for the Project 25 Compliance Assessment Program,* which is available at *http://www.safecomprogram.gov.*

Dated: July 14, 2008.

Luke Klein-Berndt,

P25 CAP Program Manager.

[FR Doc. E8–17272 Filed 7–25–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1778–DR]

Vermont; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Vermont (FEMA–1778–DR), dated July 15, 2008, and related determinations.

EFFECTIVE DATE: July 15, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 15, 2008, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Vermont resulting from severe storms and flooding during the period of June 14–17, 2008, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Vermont.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program also will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Philip E. Parr, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

The following areas of the State of Vermont have been designated as adversely affected by this declared major disaster:

Addison and Franklin Counties for Public Assistance.

All counties within the State of Vermont are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–17225 Filed 7–25–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1763–DR]

Iowa; Amendment No. 14 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Iowa (FEMA–1763–DR), dated May 27, 2008, and related determinations.

EFFECTIVE DATE: July 17, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Iowa is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 27, 2008.

Montgomery County for Individual Assistance (already designated for Public Assistance.)

Appanoose and Monroe Counties for Public Assistance.

Lucas County for Public Assistance (already designated for Individual Assistance.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–17226 Filed 7–25–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1773–DR]

Missouri; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Missouri (FEMA–1773–DR), dated June 25, 2008, and related determinations.

EFFECTIVE DATE: July 18, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Missouri is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 25, 2008.

Cass, Greene, Johnson, Stone, Taney, and Vernon Counties for Individual Assistance.

Andrew, Holt, and Webster Counties for Individual Assistance (already designated for Public Assistance.)

Nodaway County for Individual Assistance (already designated for emergency protective measures [Category B], limited direct Federal assistance, under the Public Assistance program.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidential Declared Disaster Assistance to Individuals and Households—Other Needs, 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–17224 Filed 7–25–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1775–DR]

Oklahoma; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–1775–DR), dated July 9, 2008, and related determinations.

EFFECTIVE DATE: July 18, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 9, 2008.

Choctaw and Nowata Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–17227 Filed 7–25–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; Amendment of Existing System of Records

AGENCY: Office of the Secretary.

ACTION: Proposed amendment of existing Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), the Office of the Secretary of the Department of the Interior is issuing public notice of its intent to amend an existing Privacy Act system of records notice, Interior, DOI–90, ''Federal Financial System.'' The changes will update the name of the system, system location, categories of individuals covered by the system, categories of records in the system, routine uses of records, storage and safeguard requirements, retrievability of records, and system manager(s) and address(es).

DATES: Comments must be received by September 8, 2008.

ADDRESSES: Any persons interested in commenting on these proposed amendments to an existing system of records may do so by submitting comments in writing to the Office of the Secretary Acting Privacy Act Officer, Linda Thomas, U.S. Department of the Interior, MS–116 SIB, 1951 Constitution Avenue, NW., Washington, DC 20240, or by e-mail to *Linda_Thomas@nbc.gov*.

FOR FURTHER INFORMATION CONTACT: Office of the Secretary Acting Privacy Act Officer, Linda Thomas, U.S. Department of the Interior, MS–116 SIB, 1951 Constitution Avenue, NW., Washington, DC 20240, or by e-mail to *Linda_Thomas@nbc.gov*.

SUPPLEMENTARY INFORMATION: The Office of the Secretary is proposing to amend an existing Privacy Act system of records notice, Interior, DOI–90, ''Federal Financial System,'' because the Department of the Interior (DOI) is in the process of replacing the Federal Financial System (FFS) with the Financial and Business Management System (FBMS). In the process, it is restricting the contents of this particular system of records to those pertaining to the acquisition of goods and services within DOI to identify more clearly the categories of records included in this system and the parties to whom these records may be disclosed on a routine basis, and renaming the system DOI–87, ''Acquisition of Goods and Services: FBMS.'' Other portions of the records previously covered by Interior, DOI–90 will be covered by Interior, DOI–86, ''Accounts Receivable: FBMS,'' Interior, DOI–88, ''Travel Management: FBMS,'' and Interior, DOI–89, ''Grants and Cooperative Agreements: FBMS.'' Interior, DOI–90 will be deleted upon final publication of all four of these notices.

FBMS will provide the Department of the Interior with standard business practices supported by a single, integrated finance and administrative system for all bureaus; it will help DOI manage a variety of business functions, including the acquisition of goods and services. FBMS takes a comprehensive approach to improving the current business functions in its core systems by replacing DOI's current computer systems with modern software. The combination of standardized business practices and enhanced computer system functionality will enable DOI's bureaus and offices to improve service to their customers and to operate more efficiently. Benefits gained from implementing this suite of applications will include the ability to access and share real-time, accurate business information; to support effective business decisions for mission delivery; to issue accurate financial reports and analysis of managerial data; to support timely decision-making in the field; to free-up more time for mission-focused activities; to focus on value-added analysis rather than data gathering; and to eliminate redundant administrative tasks and multiple login screens.

DOI has adopted a multi-year, phased approach to implementing FBMS, both in terms of functionality, and in terms of the migration of the Department's component bureaus and offices from FFS and other associated systems, to FBMS. DOI plans to complete its implementation of FBMS by calendar year 2013.

Towards that end, these amendments will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination. The Department will publish a revised notice if changes are made based upon a review of comments received.

Linda Thomas,

Office of the Secretary Acting Privacy Officer.

SYSTEM NAME:

Interior, DOI–87, ''Acquisition of Goods and Services: FBMS.''

Note: This system complements GSA/GOVT–6, the GSA SmartPay Purchase Charge Card Program maintained by the General Services Administration. This notice incorporates by reference but does not repeat all of the information contained in GSA/GOVT–6.

SYSTEM LOCATION:

(1) Financial and Procurement Systems Division, Budget and Finance, National Business Center, MS D–2790, 7301 West Mansfield Avenue, Denver, CO 80235–2230.

(2) Commercial credit card contractor(s) maintaining information on employee usage of the integrated charge card's purchase and fleet business lines.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Employees of the Department of the Interior's bureaus/offices who use the Government charge card for the purchase and fleet business lines.

(2) Individual and corporate vendors, consultants, contractors, etc. from whom goods and services are acquired.

Note: This system contains records relating to corporations and other business entities. However, only records containing personal information relating to individuals are subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals; Employee Identification Numbers and taxpayer identification numbers; Social Security Numbers; bank account information, Electronic Funds Transfer (EFT) data; business addresses (including ZIP Codes) and, as applicable, organizational codes; home addresses and telephone numbers (individuals); Government charge card numbers; e-mail addresses; billing, payment, and property accountability information; Dun and Bradstreet (DUNS) number; contractor monthly reports showing charges to individual accounts, account balances, and other data required to authorize, account for, and pay authorized purchase and fleet transactions; NAICS Codes, socio-economic business categories.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Chapter 1 of Title 48, CFR Chapter 1 (Federal Acquisition Regulation).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The primary use of the records is to maintain accounting and financial information associated with the acquisition of goods and services. Specifically, records are used:

(1) For paying creditors.

(2) For accounting for goods and services provided and received.

(3) For accounting for funds paid and received.

Records in this system are subject to use in approved computer matching programs authorized under the Privacy Act of 1974, as amended, for debt collection purposes.

Other disclosures outside the Department of the Interior may be made:

(1) To the Department of the Treasury for payment of claims.

(2) To other Federal agencies for the purpose of collecting debts owed to the Federal government.

(3) To a Government charge card company for the purpose of issuing credit cards and for billing purposes, including the collection of past due amounts.

(4) To consumer reporting agencies to facilitate the collection of debts owed the Government.

(5)(a) To any of the following entities or individuals, when the circumstances set forth in paragraph (b) are met:

(i) The U.S. Department of Justice (DOJ);

(ii) A court or an adjudicative or other administrative body;

(iii) A party in litigation before a court or an adjudicative or other administrative body; or

(iv) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) Any other Federal agency appearing before the Office of Hearings and Appeals;

(C) Any DOI employee acting in his or her official capacity;

(D) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(E) The United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purpose for which the records were compiled.

(6) To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office.

(7) To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

(8) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(9) To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing, or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant, or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

(10) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

(11) To state and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

(12) To an expert, consultant, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

(13) To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) The disclosure is made to such agencies, entities and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(14) To the Office of Management and Budget during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

(15) To the Department of the Treasury to recover debts owed to the United States.

(16) To the news media when the disclosure is compatible with the purpose for which the records were compiled.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in manual, microfilm, microfiche, electronic, imaged, and computer printout form. Electronic records are stored on magnetic media at the central computer processing center and at facilities maintained by commercial credit card contractor(s). Original input documents are stored in standard office filing equipment and/or as imaged documents on magnetic media at all locations which prepare and provide input documents and information for data processing.

RETRIEVABILITY:

Records are retrieved by name, Social Security Number/Employee Identification Number/Taxpayer Identification Number (individuals), organizational code, vendor code, DUNS Number, and transaction number.

SAFEGUARDS:

FBMS is maintained with controls meeting safeguard requirements identified in Departmental Privacy Act Regulations (43 CFR 2.51) for manual and automated records. Access to records is limited to authorized personnel whose official duties require such access; agency officials have access only to records pertaining to their agencies.

(1) *Physical Security:* Paper or micro format records are maintained in locked file cabinets and/or in secured rooms.

(2) *Technical Security:* Electronic records are maintained in conformity with Office of Management and Budget and Departmental guidelines reflecting the implementation of the Federal Information Security Management Act. Electronic data is protected through user identification, passwords, database permissions, and software controls. These security measures establish different degrees of access for different types of users. An audit trail is maintained and reviewed periodically to identify unauthorized access. A Privacy Impact Assessment was completed for FBMS and is updated at least annually to ensure that Privacy Act requirements and personally identifiable information safeguard requirements are met.

(3) *Administrative Security:* All DOI and contractor employees with access to FBMS are required to complete Privacy

Act, Federal Records Act, and Security Awareness training prior to being given access to the system, and on an annual basis, thereafter.

RETENTION AND DISPOSAL:

While records are generally retained and disposed of in accordance with General Records Schedule No. 3, a new records schedule for FBMS is in process in the Office of the Secretary.

SYSTEM MANAGER(S) AND ADDRESS:

(1) The following co-system owners have overall responsibility for the Financial and Business Management System:

(a) Director, Office of Acquisition and Property Management, U.S. Department of the Interior, Office of the Secretary, 1849 C Street NW., MS–2607 MIB, Washington, DC 20240; and

(b) Director, Office of Financial Management, U. S. Department of the Interior, Office of the Secretary, 1849 C Street, NW., MS–2557, Washington, DC 20240.

(2) The following system manager has responsibility for the management and operation of the computing center on which the Financial and Business Management System is being implemented: Chief, Financial and Procurement Systems Division, Budget and Finance, National Business Center, MS D–2790, 7301 West Mansfield Avenue, Denver, CO 80235–2230.

(3) The following Department of the Interior bureau/office system managers have responsibility for the data input into and maintained on the Financial and Business Management System by or for their respective bureaus/offices:

(a) Chief, Division of Administration, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., MS222, Washington DC 20240.

(b) Chief, Procurement Division, Minerals Management Service, Mail Stop 2310, 381 Elden Street, Herndon, VA 20170–4817.

(c) Chief, Division of Contracting and Facilities Management, U. S. Fish and Wildlife Service, Mail Stop 7118–43, 4401 North Fairfax Drive, Arlington, VA, 22203.

(d) Director, Acquisition and Property Management, Indian Affairs, Ely S. Parker Building, 2051 Mercator Drive, Reston, VA 20191.

(e) Division of Property, Acquisition and Headquarters Services, Bureau of Land Management, 1620 L Street, NW., 10th Floor, Washington, DC 20240.

(f) Manager, Acquisition and Assistance Management, Bureau of Reclamation, PO Box 25007, DFC *Attn:* 84–27700, Denver, CO 80225–0007.

(g) Chief, Acquisitions Services Directorate, National Business Center, Office of the Secretary, 1849 C Street, NW., MS–2557 MIB, Washington, DC 20240.

(h) Chief of Contracting, Contracting Office, Denver Service Center, National Park Service, 12795 W. Alameda Parkway, Suite 130, Denver, CO 80225.

(i) U.S. Geological Survey, Chief, Office of Acquisition and Grants, Mail Stop 205, 12201 Sunrise Valley Drive, Reston, VA 20192.

(j) Chief, Accounting Operations Division, National Business Center, 7301 West Mansfield Avenue, Mail Stop D–2770, Denver, CO 80235–2230.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on himself or herself should address his/her request to the appropriate bureau/office System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

An individual requesting access to records maintained on himself or herself should address his/her request to the appropriate bureau/office System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORDS PROCEDURES:

An individual requesting amendment of a record maintained on himself or herself should address his/her request to the appropriate bureau/office System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained; contracting officers; finance and accounting personnel (certifying officials); commercial credit card contractor(s), and acquisition, finance, and accounting documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17248 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; Amendment of Existing System of Records

AGENCY: Office of the Secretary.

ACTION: Proposed amendment of existing Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), the Office of the Secretary of the Department of the Interior is issuing public notice of its intent to amend an existing Privacy Act system of records notice, Interior, OS–88, ''Travel Management Records.'' The changes will update the name of the system, system location, categories of individuals covered by the system, categories of records in the system, routine use of records, storage and safeguard requirements, retrievability of records, and system managers(s) and addresses.

DATES: Comments must be received by September 8, 2008.

ADDRESSES: Any persons interested in commenting on these proposed amendments to an existing system of records may do so by submitting comments in writing to the Office of the Secretary Acting Privacy Act Officer, Linda Thomas, U.S. Department of the Interior, MS–116 SIB, 1951 Constitution Avenue, NW., Washington, DC 20240, or by e-mail to *Linda_Thomas@nbc.gov*.

FOR FURTHER INFORMATION CONTACT: Office of the Secretary Acting Privacy Act Officer, Linda Thomas, U.S. Department of the Interior, MS–116 SIB, 1951 Constitution Avenue, NW., Washington, DC 20240, or by e-mail to *Linda_Thomas@nbc.gov*.

SUPPLEMENTARY INFORMATION: The Office of the Secretary is proposing to amend an existing Privacy Act system of records notice, Interior, OS–88, ''Travel Management Records,'' because the Department of the Interior (DOI) is in the process of replacing the electronic system used by the Office of the Secretary to manage the process of processing travel authorizations and claims with the Financial and Business Management System (FBMS). In the process, it is expanding the coverage of the system to include all of DOI's component bureaus and offices and renaming the system notice DOI–88, ''Travel Management: FBMS.''

FBMS will provide the Department of the Interior with standard business practices supported by a single, integrated finance and administrative system for all bureaus; it will help DOI manage a variety of business functions, including travel management. FBMS takes a comprehensive approach to improving the current business functions in its core systems by replacing DOI's current computer systems with modern software. The combination of standardized business

practices and enhanced computer system functionality will enable DOI's bureaus and offices to improve service to their customers and to operate more efficiently. Benefits gained from implementing this suite of applications will include the ability to access and share real-time, accurate business information; to support effective business decisions for mission delivery; to issue accurate financial reports and analysis of managerial data; to support timely decision-making in the field; to free-up more time for mission-focused activities; to focus on value-added analysis rather than data gathering; and to eliminate redundant administrative tasks and multiple login screens.

DOI has adopted a multi-year, phased approach to implementing FBMS, both in terms of functionality, and in terms of the migration of the Department's component bureaus and offices from FFS and other associated systems, to the FBMS. DOI plans to complete its implementation of the FBMS by calendar year 2013.

Towards that end, these amendments will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination. The Department will publish a revised notice if changes are made based upon a review of comments received.

Linda Thomas,

Office of the Secretary Acting Privacy Officer.

SYSTEM NAME:

Interior, DOI–88, ''Travel Management: FBMS.''

Note: This system complements GSA/GOVT–3 (Travel Charge Card Program) and GSA/GOVT–4 (Contracted Travel Services Program), the Government-wide systems for travel maintained by the General Services Administration. This notice incorporates by reference but does not repeat all of the information contained in GSA/GOVT—3 and GSA/GOVT–4.

SYSTEM LOCATION:

(1) Financial and Procurement Systems Division, Budget and Finance, National Business Center, MS D–2790, 7301 West Mansfield Avenue, Denver, CO 80235–2230.

(2) Commercial travel services contractor(s) providing travel services for those individuals authorized to travel at government expense on official business for purposes of arranging transportation and lodging and providing end-to-end automated processing of travel authorizations and travel vouchers.

(3) Relocation Services contractor(s) providing relocation services to individuals and their families that are being transferred to new duty locations anywhere within the continental United States and Puerto Rico.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Employees and former employees of the Department of the Interior's bureaus/offices.

(2) Employees of independent agencies, councils, and commissions (which are supported, administratively, by the Department of the Interior).

(3) Persons serving the Department in other capacities, without compensation, to the extent authorized under 5 U.S.C. 5703.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals; Social Security Numbers and tax identification numbers; employee code or number, bank account information; government charge card account numbers; home addresses and telephone numbers; employment and pay information; e-mail addresses; expenses, vouchers and routine travel information (e.g., trip record number; destination; travel itinerary; mode and purpose of travel; date(s) of travel; passport and/or visa number(s); travel preferences; special needs; expenses incurred; advances received; claims; reimbursements; authorizations; etc.); charge card usage information; routine billing, payment, and property accountability information used in accounting and financial processing, which includes charge card transactions; contractor monthly reports showing charges to individual travel charge card accounts, account balances, and other data required to authorize, account for, and pay authorized travel transactions; and individual credit scores.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 57 and implementing Federal Travel Regulations (41 CFR 300–304); and 31 U.S.C. 3511 and 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary purpose of the records is to process travel authorizations and pay travel claims.

Other disclosures outside the Department of the Interior may be made:

(1) To the Department of the Treasury for payment of claims.

(2) To the Department of State for passports.

(3) To commercial travel services contractor(s) providing travel services for those individuals authorized to travel at government expense on official business for purposes of arranging transportation and lodging, and providing end-to-end automated processing of travel authorizations and travel vouchers.

(4) To relocation services contractor(s) providing relocation services to individuals and their families that are being transferred to new duty locations anywhere within the continental United States and Puerto Rico.

(5) To a travel charge card vendor bank/credit card company for the purpose of issuing credit cards and for billing purposes, including the collection of past due amounts.

(6) To the General Services Administration in the form of listings, reports, and records of all transportation-related transactions, including refunds and adjustments, by the contractor, to enable audits of transportation related charges to the Government.

(7) To consumer reporting agencies to obtain information pertaining to the individual credit scores of travel card applicants, and to facilitate the collection of debts owed the Government.

(8) To other Federal agencies for the purpose of collecting debts owed to the Federal government.

(9)(a) To any of the following entities or individuals, when the circumstances set forth in paragraph (b) are met:

(i) The U.S. Department of Justice (DOJ);

(ii) A court or an adjudicative or other administrative body;

(iii) A party in litigation before a court or an adjudicative or other administrative body; or

(iv) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) Any other Federal agency appearing before the Office of Hearings and Appeals;

(C) Any DOI employee acting in his or her official capacity;

(D) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(E) The United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purpose for which the records were compiled.

(10) To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office.

(11) To any criminal, civil, or regulatory law enforcement authority (whether federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

(12) To an official of another federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(13) To federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

(14) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

(15) To state and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

(16) To an expert, consultant, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

(17) To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) The disclosure is made to such agencies, entities and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(18) To the Office of Management and Budget during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

(19) To the Department of the Treasury to recover debts owed to the United States.

(20) To the news media when the disclosure is compatible with the purpose for which the records were compiled.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in manual, microfilm, microfiche, electronic, imaged and computer printout form. Electronic records are stored on magnetic media at the central computer processing center, the travel charge card vendor bank, and the commercial travel services contractor or relocations services contractor. Original input documents are stored in standard office filing equipment and/or as imaged documents on magnetic media at all locations which prepare and provide input documents and information for data processing.

RETRIEVABILITY:

Records are retrieved by name, Social Security Number/Employee Identification Number/Taxpayer Identification Number, organizational code, employee code or number (including travel charge card account number), and appropriation or fund to be credited.

SAFEGUARDS:

FBMS is maintained with controls meeting safeguard requirements identified in Departmental Privacy Act Regulations (43 CFR 2.51) for manual and automated records. Access to records is limited to authorized personnel whose official duties require such access; agency officials have access only to records pertaining to their agencies.

(1) Physical Security: Paper or micro format records are maintained in locked file cabinets and/or in secured rooms.

(2) Technical Security: Electronic records are maintained in conformity with Office of Management and Budget and Departmental guidelines reflecting the implementation of the Federal Information Security Management Act. Electronic data is protected through user identification, passwords, database permissions and software controls. These security measures establish different degrees of access for different types of users. An audit trail is maintained and reviewed periodically to identify unauthorized access. A Privacy Impact Assessment was completed for the FBMS and is updated at least annually to ensure that Privacy Act requirements and personally identifiable information safeguard requirements are met.

(3) Administrative Security: All DOI and contractor employees with access to FBMS are required to complete Privacy Act, Federal Records Act and Security Awareness training prior to being given access to the system, and on an annual basis, thereafter.

RETENTION AND DISPOSAL:

While travel records are generally retained and disposed of in accordance with General Records Schedule No. 9, Item No. 3, a new records schedule for the FBMS is in process in the Office of the Secretary.

SYSTEM MANAGER(S) AND ADDRESS:

(1) The following co-system owners have overall responsibility for the Financial and Business Management System:

(a) Director, Office of Acquisition and Property Management, U.S. Department of the Interior, Office of the Secretary, 1849 C Street, NW., MS–2607 MIB, Washington, DC 20240; and

(b) Director, Office of Financial Management, U.S. Department of the Interior, Office of the Secretary, 1849 C Street, NW., MS–2557, Washington, DC 20240.

(2) The following system manager has responsibility for the management and operation of the computing center on which the Financial and Business Management System is being implemented: Chief, Financial and Procurement Systems Division, Budget and Finance, National Business Center, MS D–2790, 7301 West Mansfield Avenue, Denver, CO 80235–2230.

(3) The following Department of the Interior bureau/office system managers

have responsibility for the data input into and maintained on the Financial and Business Management System by or for their respective bureaus/offices:

(a) Chief, Division of Financial Management, Office of Surface Mining Reclamation and Enforcement, P.O. Box 25065, Denver Federal Center, Building 25, Room 1501, Denver, CO 80225–0065.

(b) Chief, Finance Division, Minerals Management Service, Mail Stop 2310, 381 Elden Street, Herndon, VA 20170–4817.

(c) Chief, Division of Financial Management, U.S. Fish and Wildlife Service, Mail Stop 7029–43, 4401 North Fairfax Drive, Arlington, VA, 22203.

(d) Chief, Office of Financial Management, Indian Affairs, Ely S. Parker Building, 2051 Mercator Drive, Reston, VA 20191.

(e) Finance Officer, Bureau of Land Management, Building 50, Denver Federal Center, P.O. Box 25047, Denver, CO 80225.

(f) Manager, Finance and Accounting Division, Bureau of Reclamation, P.O. Box 25007, DFC *Attn:* 84–27700, Denver, CO 80225–0007.

(g) Finance Officer, Office of Financial Management, Office of the Secretary, 1849 C Street, NW., MS–2557 MIB, Washington, DC 20240.

(h) Manager, Accounting Operations Center, National Park Service, 13461 Sunrise Valley Drive, 2nd Floor, Herndon, VA 20171.

(i) U.S. Geological Survey, Office of Accounting and Financial Management, Mail Stop 270, 12201 Sunrise Valley Drive, Reston, VA 20192.

(j) Chief, Accounting Operations Division, National Business Center, 7301 West Mansfield Avenue, Mail Stop D–2770, Denver, CO 80235–2230.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on himself or herself should address his/her request to the appropriate bureau/office System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

An individual requesting access to records maintained on himself or herself should address his/her request to the appropriate bureau/office System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORDS PROCEDURES:

An individual requesting amendment of a record maintained on himself or herself should address his/her request to the appropriate bureau/office System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual travelers on whom the records are maintained; supervisors of such individuals; employing offices; integrated travel charge card agency/organization program coordinators; commercial travel service contractors and relocation service contractors; and standard travel, finance and accounting documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17249 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; Amendment of Existing System of Records

AGENCY: Office of the Secretary.

ACTION: Proposed amendment of existing Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), the Office of the Secretary of the Department of the Interior is issuing public notice of its intent to amend an existing Privacy Act system of records notice, Interior, OS–86, ''Accounts Receivable.'' The changes will update the name of the system, system location, categories of individuals covered by the system, categories of records in the system, routine use of records, storage and safeguard requirements, retrievability of records, and system managers(s) and addresses.

DATES: Comments must be received by September 8, 2008.

ADDRESSES: Any persons interested in commenting on these proposed amendments to an existing system of records may do so by submitting comments in writing to the Office of the Secretary Acting Privacy Act Officer, Linda Thomas, U.S. Department of the Interior, MS–116 SIB, 1951 Constitution Avenue, NW., Washington, DC 20240, or by e-mail to *Linda_Thomas@nbc.gov*.

FOR FURTHER INFORMATION CONTACT: Office of the Secretary Acting Privacy Act Officer, Linda Thomas, U.S. Department of the Interior, MS–116 SIB, 1951 Constitution Avenue, NW., Washington, DC 20240, or by e-mail to *Linda_Thomas@nbc.gov*.

SUPPLEMENTARY INFORMATION: The Office of the Secretary is proposing to amend an existing Privacy Act system of records notice, Interior, OS–86, ''Accounts Receivable,'' because the Department of the Interior (DOI) is in the process of replacing the electronic system used by the Office of the Secretary to manage the process of billing customers and debtors for amounts owed with the Financial and Business Management System (FBMS). In the process, it is expanding the coverage of the system to include all of DOI's component bureaus and offices and renaming the system notice DOI–86, ''Accounts Receivable: FBMS.''

FBMS will provide the Department of the Interior with standard business practices supported by a single, integrated finance and administrative system for all bureaus; it will help DOI manage a variety of business functions, including the collection of debts. FBMS takes a comprehensive approach to improving the current business functions in its core systems by replacing DOI's current computer systems with modern software. The combination of standardized business practices and enhanced computer system functionality will enable DOI's bureaus and offices to improve service to their customers and to operate more efficiently. Benefits gained from implementing this suite of applications will include the ability to access and share real-time, accurate business information; to support effective business decisions for mission delivery; to issue accurate financial reports and analysis of managerial data; to support timely decision-making in the field; to free-up more time for mission-focused activities; to focus on value-added analysis rather than data gathering; and to eliminate redundant administrative tasks and multiple login screens.

DOI has adopted a multi-year, phased approach to implementing FBMS, both in terms of functionality, and in terms of the migration of the Department's component bureaus and offices from FFS and other associated systems, to the FBMS. DOI plans to complete its implementation of the FBMS by calendar year 2013.

Towards that end, these amendments will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination. The Department will publish a revised notice if changes

are made based upon a review of comments received.

Linda Thomas,

Office of the Secretary Acting Privacy Officer.

SYSTEM NAME:

Interior, DOI–86, ''Accounts Receivable: FBMS.''

SYSTEM LOCATION:

Financial and Procurement Systems Division, Budget and Finance, National Business Center, MS D–2790, 7301 West Mansfield Avenue, Denver, CO 80235–2230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals owing money to the Department of the Interior's (DOI) bureaus and offices, including employees of the Department, former employees of the Department, business firms, institutions, and private citizens.

Note: Most of the records in this system that pertain to individuals contain information about ''sole proprietorships.'' However, some of the records which pertain to individuals also contain personal information. Only those records containing personal information are subject to the Privacy Act. The manual and automated filing systems in which these records are maintained also contain records concerning corporations and other business entities or organizations. These records, which do not pertain to individuals, are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, Taxpayer Identification Number, Social Security Number, telephone number, vendor code or number, amount of money owed, basis for inclusion in system (including itemization of goods and services received or provided, and/or overpayments or under payments made by them or provided to them.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5514; 31 U.S.C. 3701 and 3702; 31 U.S.C. 3711 *et seq.*; and 26 U.S.C. 6402.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The primary purpose of the system is to bill debtors for amounts owed to DOI and to follow-up on unpaid debts.

Note: Records in this system are subject to use in approved computer matching programs authorized under the Privacy Act of 1974, as amended, for debt collection purposes.

Other disclosures outside the Department of the Interior may be made:

(1) To disclose debtor information to the Internal Revenue Service, or to another Federal agency or its contractor solely to aggregate information for the Internal Revenue Service to collect debts owed to the Federal government through the offset of tax refunds.

(2) To consumer reporting agencies to facilitate collection of debts owed the Government.

(3) To other Federal agencies for the purpose of collecting debts owed to the Federal government.

(4) To any other Federal, state or local agency for the purpose of conducting an authorized computer matching program to identify and locate delinquent debtors for the recoupment of debts owed to the Department of the Interior.

(5)(a) To any of the following entities or individuals, when the circumstances set forth in paragraph (b) are met:

(i) The U.S. Department of Justice (DOJ);

(ii) A court or an adjudicative or other administrative body;

(iii) A party in litigation before a court or an adjudicative or other administrative body; or

(iv) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) Any other Federal agency appearing before the Office of Hearings and Appeals;

(C) Any DOI employee acting in his or her official capacity;

(D) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(E) The United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purpose for which the records were compiled.

(6) To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office.

(7) To any criminal, civil, or regulatory law enforcement authority (whether federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

(8) To an official of another federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(9) To federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

(10) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

(11) To state and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

(12) To an expert, consultant, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

(13) To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) The disclosure is made to such agencies, entities and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(14) To the Office of Management and Budget during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

(15) To the Department of the Treasury to recover debts owed to the United States.

(16) To the news media when the disclosure is compatible with the purpose for which the records were compiled.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in manual, microfilm, microfiche, electronic, imaged and computer printout form. Electronic records are stored on magnetic media at the central computer processing center. Original input documents are stored in standard office filing equipment and/or as imaged documents on magnetic media at all locations which prepare and provide input documents and information for data processing.

RETRIEVABILITY:

Records are retrieved by name, Social Security Number/Employee Identification Number/Taxpayer Identification Number (individuals), vendor code or number, and appropriation or fund to be credited.

SAFEGUARDS:

FBMS is maintained with controls meeting safeguard requirements identified in Departmental Privacy Act Regulations (43 CFR 2.51) for manual and automated records. Access to records is limited to authorized personnel whose official duties require such access; agency officials have access only to records pertaining to their agencies.

(1) *Physical Security:* Paper or micro format records are maintained in locked file cabinets and/or in secured rooms.

(2) *Technical Security:* Electronic records are maintained in conformity with Office of Management and Budget and Departmental guidelines reflecting the implementation of the Federal Information Security Management Act. Electronic data is protected through user identification, passwords, database permissions and software controls. These security measures establish different degrees of access for different types of users. An audit trail is maintained and reviewed periodically to identify unauthorized access. A Privacy Impact Assessment was completed for the FBMS and is updated at least annually to ensure that Privacy Act requirements and personally identifiable information safeguard requirements are met.

(3) *Administrative Security:* All DOI and contractor employees with access to FBMS are required to complete Privacy Act, Federal Records Act and Security Awareness training prior to being given access to the system, and on an annual basis, thereafter.

RETENTION AND DISPOSAL:

While records are generally retained and disposed of in accordance with General Records Schedule No. 6, Item No. 1, a new records schedule for the FBMS is in process in the Office of the Secretary.

SYSTEM MANAGER(S) AND ADDRESS:

(1) The following co-system owners have overall responsibility for the Financial and Business Management System:

(a) Director, Office of Acquisition and Property Management, U.S. Department of the Interior, Office of the Secretary, 1849 C Street, NW, MS–2607 MIB, Washington, DC 20240; and

(b) Director, Office of Financial Management, U.S. Department of the Interior, Office of the Secretary, 1849 C Street, NW., MS–2557, Washington, DC 20240.

(2) The following system manager has responsibility for the management and operation of the computing center on which the Financial and Business Management System is being implemented: Chief, Financial and Procurement Systems Division, Budget and Finance, National Business Center, MS D–2790. 7301 West Mansfield Avenue, Denver, CO 80235–2230.

(3) The following Department of the Interior bureau/office system managers have responsibility for the data input into and maintained on the Financial and Business Management System by or for their respective bureaus/offices:

(a) Chief, Division of Financial Management, Office of Surface Mining Reclamation and Enforcement, P. O. Box 25065, Denver Federal Center, Building 25, Room 1501, Denver, CO 80225–0065.

(b) Chief, Finance Division, Minerals Management Service, Mail Stop 2310, 381 Elden Street, Herndon, VA 20170–4817.

(c) Chief, Division of Financial Management, U. S. Fish and Wildlife Service, Mail Stop 7029–43, 4401 North Fairfax Drive, Arlington, VA 22203.

(d) Chief, Office of Financial Management, Indian Affairs, Ely S. Parker Building, 2051 Mercator Drive, Reston, VA 20191.

(e) Finance Officer, Bureau of Land Management, Building 50, Denver Federal Center, P.O. Box 25047, Denver, CO 80225.

(f) Manager, Finance and Accounting Division, Bureau of Reclamation, P.O. Box 25007, DFC *Attn:* 84–27700, Denver, CO 80225–0007.

(g) Finance Officer, Office of Financial Management, Office of the Secretary, 1849 C Street, NW., MS–2557 MIB, Washington, DC 20240.

(h) Manager, Accounting Operations Center, National Park Service, 13461 Sunrise Valley Drive, 2nd Floor, Herndon, VA 20171.

(i) U.S. Geological Survey, Office of Accounting and Financial Management, Mail Stop 270, 12201 Sunrise Valley Drive, Reston, VA 20192.

(j) Chief, Accounting Operations Division, National Business Center, 7301 West Mansfield Avenue, Mail Stop D–2770, Denver, CO 80235–2230.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on himself or herself should address his/her request to the appropriate bureau/office System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

An individual requesting access to records maintained on himself or herself should address his/her request to the appropriate bureau/office System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORDS PROCEDURES:

An individual requesting amendment of a record maintained on himself or herself should address his/her request to the appropriate bureau/office System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals owing money to the Department of the Interior bureaus and offices and standard finance and accounting documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17250 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974, As Amended; Establishment of a New System of Records

AGENCY: Office of the Secretary.

ACTION: Proposed establishment of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Department of the Interior is issuing public notice of its intent to add a new Privacy Act system of records notice to its inventory: Interior, DOI–89, ''Grants and Cooperative Agreements: FBMS.'' This new notice covers records previously covered in Privacy Act system of records notice Interior, DOI–90, ''Federal Financial System.''

DATES: Comments must be received by September 8, 2008.

ADDRESSES: Any persons interested in commenting on this new, proposed system of records may do so by submitting comments in writing to the Office of the Secretary Acting Privacy Act Officer, Linda Thomas, U.S. Department of the Interior, MS–116 SIB, 1951 Constitution Avenue, NW., Washington, DC 20240, or by e-mail to *Linda_Thomas@nbc.gov*.

FOR FURTHER INFORMATION CONTACT: Office of the Secretary Acting Privacy Act Officer, Linda Thomas, U.S. Department of the Interior, MS–116 SIB, 1951 Constitution Avenue, NW., Washington, DC 20240, or by e-mail to *Linda_Thomas@nbc.gov*.

SUPPLEMENTARY INFORMATION: The records covered by this notice were previously covered by another Privacy Act System of Records Notice: Interior, DOI–90, ''Federal Financial System.'' The Office of the Secretary is proposing to establish a separate notice to cover records relating to grants and cooperative agreements to identify more clearly the categories of records included in this system and the parties to whom these records may be disclosed on a routine basis.

The Office of the Secretary is proposing to establish this notice at this time because the Department of the Interior (DOI) is in the process of replacing the Federal Financial System (FFS) with the Financial and Business Management System (FBMS), and because Interior, DOI–90 is being amended to cover only those records relating to DOI's acquisition of goods and services. Upon its amendment, Interior DOI–90 will be renamed DOI–87, ''Acquisition of Goods and Services: FBMS.'' Other portions of the records previously covered by Interior, DOI–90 will be covered by Interior, DOI–86, ''Accounts Receivable: FBMS,'' and Interior, DOI–88, ''Travel Management: FBMS.''

FBMS will provide the Department of the Interior with standard business practices supported by a single, integrated finance and administrative system for all bureaus; it will help DOI manage a variety of business functions, including the awarding of grants and establishing of cooperative agreements. FBMS takes a comprehensive approach to improving the current business functions in its core systems by replacing DOI's current computer systems with modern software. The combination of standardized business practices and enhanced computer system functionality will enable DOI's bureaus and offices to improve service to their customers and to operate more efficiently. Benefits gained from implementing this suite of applications will include the ability to access and share real-time, accurate business information; to support effective business decisions for mission delivery; to issue accurate financial reports and analysis of managerial data; to support timely decision-making in the field; to free-up more time for mission-focused activities; to focus on value-added analysis rather than data gathering; and to eliminate redundant administrative tasks and multiple login screens.

DOI has adopted a multi-year, phased approach to implementing FBMS, both in terms of functionality, and in terms of the migration of the Department's component bureaus and offices from FFS and other associated systems, to FBMS. DOI plans to complete its implementation of FBMS by calendar year 2013.

Towards that end, this new system will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination. The Department will publish a revised notice if changes are made based upon a review of comments received.

Linda Thomas,

Office of the Secretary Acting Privacy Officer.

SYSTEM NAME:

Interior, DOI–89, ''Grants and Cooperative Agreements: FBMS.''

SYSTEM LOCATION:

Financial and Procurement Systems Division, Budget and Finance, National Business Center, MS D–2790, 7301 West Mansfield Avenue, Denver, CO 80235–2230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual and corporate recipients of grants and cooperative agreement awards.

Note: This system contains records relating to non-profit and not-for-profit institutions, as well as other business entities. However, only records containing personal information relating to individuals are subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals; Social Security Numbers; tax identification numbers; recipient addresses, email addresses, telephone, and fax numbers; and payment information used in accounting and financial processing of grant and cooperative agreement awards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701 *et seq.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary purpose of the records is to award and manage grant and cooperative agreement awards.

Other disclosures outside the Department of the Interior may be made:

(1) To the Department of the Treasury for payment of claims.

(2) To the Department of Health and Human Services in the form of grant and cooperative agreement announcements and application packages.

(3) To the Department of Commerce in the form of reports listing all grant and cooperative agreement awards.

(4) To other Federal agencies for the purpose of collecting debts owed to the Federal government.

(5)(a) To any of the following entities or individuals, when the circumstances set forth in paragraph (b) are met:

(i) The U.S. Department of Justice (DOJ);

(ii) A court or an adjudicative or other administrative body;

(iii) A party in litigation before a court or an adjudicative or other administrative body; or

(iv) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) Any other Federal agency appearing before the Office of Hearings and Appeals;

(C) Any DOI employee acting in his or her official capacity;

(D) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(E) The United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purpose for which the records were compiled.

(6) To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office.

(7) To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

(8) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(9) To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant, or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

(10) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

(11) To state and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

(12) To an expert, consultant, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

(13) To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) The disclosure is made to such agencies, entities and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(14) To the Office of Management and Budget during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

(15) To the Department of the Treasury to recover debts owed to the United States.

(16) To the news media when the disclosure is compatible with the purpose for which the records were compiled.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in manual, microfilm, microfiche, electronic, imaged and computer printout form. Electronic records are stored on magnetic media at the central computer processing center. Original input documents are stored in standard office filing equipment and/or as imaged documents on magnetic media at all locations which prepare and provide input documents and information for data processing.

RETRIEVABILITY:

Records are retrieved by document award number and recipient name or Social Security Number/Taxpayer Identification Number (individuals).

SAFEGUARDS:

FBMS is maintained with controls meeting safeguard requirements identified in Departmental Privacy Act Regulations (43 CFR 2.51) for manual and automated records. Access to records is limited to authorized personnel whose official duties require such access; agency officials have access only to records pertaining to their agencies.

(1) *Physical Security:* Paper or micro format records are maintained in locked file cabinets and/or in secured rooms.

(2) *Technical Security:* Electronic records are maintained in conformity with Office of Management and Budget and Departmental guidelines reflecting the implementation of the Federal Information Security Management Act. Electronic data is protected through user identification, passwords, database permissions, and software controls. These security measures establish different degrees of access for different types of users. An audit trail is maintained and reviewed periodically to identify unauthorized access. A Privacy Impact Assessment was completed for the FBMS and is updated at least annually to ensure that Privacy Act requirements and personally identifiable information safeguard requirements are met.

(3) *Administrative Security:* All DOI and contractor employees with access to FBMS are required to complete Privacy Act, Federal Records Act and Security Awareness training prior to being given access to the system, and on an annual basis, thereafter.

RETENTION AND DISPOSAL:

While records are generally retained and disposed of in accordance with General Records Schedule No. 3, a new records schedule for FBMS is in process in the Office of the Secretary.

SYSTEM MANAGER(S) AND ADDRESS:

(1) The following co-system owners have overall responsibility for the Financial and Business Management System:

(a) Director, Office of Acquisition and Property Management, U.S. Department of the Interior, Office of the Secretary, 1849 C Street, NW., MS–2607 MIB, Washington, DC 20240; and

(b) Director, Office of Financial Management, U.S. Department of the Interior, Office of the Secretary, 1849 C Street, NW., MS–2557, Washington, DC 20240.

(2) The following system manager has responsibility for the management and operation of the computing center on which the Financial and Business Management System is being implemented: Chief, Financial and Procurement Systems Division, Budget and Finance, National Business Center,

MS D–2790, 7301 West Mansfield Avenue, Denver, CO 80235–2230.

(3) The following Department of the Interior bureau/office system managers have responsibility for the data input into and maintained on the Financial and Business Management System by or for their respective bureaus/offices:

(a) Chief, Division of Financial Management, Office of Surface Mining Reclamation and Enforcement, P.O. Box 25065, Denver Federal Center, Building 25, Room 1501, Denver, CO 80225–0065.

(b) Chief, Finance Division, Minerals Management Service, Mail Stop 2310, 381 Elden Street, Herndon, VA 20170–4817.

(c) Chief, Division of Financial Management, U.S. Fish and Wildlife Service, Mail Stop 7029–43, 4401 North Fairfax Drive, Arlington, VA, 22203.

(d) Chief, Office of Financial Management, Indian Affairs, Ely S. Parker Building, 2051 Mercator Drive, Reston, VA 20191.

(e) Finance Officer, Bureau of Land Management, Building 50, Denver Federal Center, P.O. Box 25047, Denver, CO 80225.

(f) Manager, Finance and Accounting Division, Bureau of Reclamation, P.O. Box 25007, DFC Attn: 84–27700, Denver, CO 80225–0007.

(g) Finance Officer, Office of Financial Management, Office of the Secretary, 1849 C Street, NW., MS–2557 MIB, Washington, DC 20240.

(h) Manager, Accounting Operations Center, National Park Service, 13461 Sunrise Valley Drive, 2nd Floor, Herndon, VA 20171.

(i) U.S. Geological Survey, Office of Accounting and Financial Management, Mail Stop 270, 12201 Sunrise Valley Drive, Reston, VA 20192.

(j) Chief, Accounting Operations Division, National Business Center, 7301 West Mansfield Avenue, Mail Stop D–2770, Denver, CO 80235–2230.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on himself or herself should address his/her request to the appropriate bureau/office System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

An individual requesting access to records maintained on himself or herself should address his/her request to the appropriate bureau/office System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORDS PROCEDURES:

An individual requesting amendment of a record maintained on himself or herself should address his/her request to the appropriate bureau/office System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Grant and cooperative agreement award recipients; grants and cooperative agreement officers, finance and accounting personnel (certifying officials); and application, award, finance, and accounting documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–17264 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–R–2008–N0143]; [60138–1265–6CCP–S3]

Pathfinder National Wildlife Refuge, Wyoming

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announce that the draft Comprehensive Conservation Plan (CCP) and Environmental Assessment (EA) for the Pathfinder National Wildlife Refuge is available. This draft CCP/EA describes how the Service intends to manage the refuge for the next 15 years. We request public comment.

DATES: To ensure consideration, we must receive your written comments on the draft CCP/EA by August 27, 2008.

ADDRESSES: Please provide written comments to Toni Griffin, Planning Team Leader, Division of Refuge Planning, Branch of Comprehensive Conservation Planning, Mountain-Prairie Region, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225–0486; via facsimile at 303–236–4792; or electronically to *toni_griffin@fws.gov*. A copy of the CCP/EA may be obtained by writing to U.S. Fish and Wildlife Service, Division of Refuge Planning, 134 Union Boulevard, Suite 300, Lakewood, Colorado 80228; or by download from *http://mountain-prairie.fws.gov/planning*.

FOR FURTHER INFORMATION CONTACT: Toni Griffin, 303–236–4378 (phone) or John Esperance, 303–236–4369 (phone).

SUPPLEMENTARY INFORMATION: Located in central Wyoming in a high plains basin near the headwaters of the Platte-Kansas Ecosystem, Pathfinder National Wildlife Refuge (NWR) lies approximately 47 miles southwest of Casper, Wyoming. The Pathfinder NWR is managed by Service staff headquartered at the Arapaho NWR near Walden, Colorado.

Pathfinder NWR was established by Executive Order 7425, August 1, 1936, which designated the Pathfinder Wildlife Refuge ''as a refuge and breeding ground for birds and other wildlife''. Pathfinder NWR was established as an overlay refuge on Bureau of Reclamation lands. As such, primary jurisdiction of these lands remains under the authority of the Bureau of Reclamation. The Bureau of Reclamation administers lands within the Pathfinder Project boundary for North Platte Project purposes including flood control, irrigation, and hydroelectric power generation. A Memorandum of Agreement specifies the management responsibilities of the U.S. Fish and Wildlife Service while preserving the autonomy of Bureau of Reclamation to manage Pathfinder Dam and Reservoir.

This draft CCP/EA identifies and evaluates three alternatives for managing the refuge for the next 15 years. Alternative A, the No Action alternative, reflects the current management of the refuge. It provides the baseline against which to compare the other alternatives. Refuge habitats would continue to be minimally managed on an opportunistic schedule that may maintain, or most likely would result in further decline in, the diversity of vegetation and wildlife species. Only limited data collection and monitoring of refuge habitats and wildlife species would occur on the refuge. Outreach and partnerships would continue at present levels.

Management activities under alternative B would be increased. Upland habitats would be evaluated and managed for the benefit of migratory bird species. Monitoring and management of invasive species on the refuge would be increased. With additional staffing, the Service would collect baseline biological information for wildlife and habitats. Wildlife-dependent recreation opportunities would be provided and enhanced where compatible with refuge purposes. Efforts would be increased in the operations and maintenance of natural resources on the refuge and to maintain and develop

partnerships that promote wildlife and habitat research and management.

Alternative C is the Service's proposed action and basis for the draft comprehensive conservation plan. Under Alternative C, the Memorandum of Agreement between the Bureau of Reclamation and the Service would be modified to eliminate Service interest in lands (approximately 10,800 acres) that are difficult to manage and provide minimal opportunity to improve wildlife habitat. Remaining refuge areas would be managed similar to those actions described in Alternative B. This would enable the Service to focus efforts on manageable lands, thereby enhancing refuge management and efficiently directing refuge resources toward accomplishing the mission of the Refuge System.

The proposed action (Alternative C) was selected because it best meets the purposes and goals of the refuge, as well as the mission and goals of the National Wildlife Refuge System. The proposed action will also benefit federally listed species, shore birds, migrating and nesting waterfowl and resident wildlife. Environmental education and partnerships will result in improved wildlife-dependent recreational opportunities. Cultural and historical resources as well as federally listed species will be protected.

Opportunity for public input will be provided at a public meeting to be scheduled soon. The specific date and time for the public meeting is yet to be determined, but will be announced via local media and a planning update. All information provided voluntarily by mail, by phone, or at public meetings (e.g., names, addresses, letters of comment, input recorded during meetings) becomes part of the official public record. If requested under the Freedom of Information Act by a private citizen or organization, the Service may provide copies of such information. The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*); NEPA Regulations (40 CFR parts 1500–1508); other appropriate Federal laws and regulations; Executive Order 12996; the National Wildlife Refuge System Improvement Act of 1997; and Service policies and procedures for compliance with those laws and regulations.

Dated: July 22, 2008.

James J. Slack

Deputy Regional Director.

[FR Doc. E8–17199 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Reservation for the Jicarilla Apache Nation of New Mexico

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Reservation Proclamation.

SUMMARY: This notice informs the public that approximately 4,137.00 acres, more or less, was proclaimed to be an addition to the Jicarilla Apache Nation Reservation, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ben Burshia, Bureau of Indian Affairs, Division of Real Estate Services, MS–4639–MIB, 1849 C Street, NW., Washington, DC 20240, telephone (202) 208–7737.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation was issued, according with Section 7 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), for the land described below. The land was proclaimed to be the Jicarilla Apache Nation Reservation for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership. Rio Arriba County, Mossman Tract, within the Tierra Amarilla Grant, New Mexico.

The tract of land officially designated as the Mossman Tract, containing 4,137.00 acres, more or less, being the northerly portion of a tract of land formerly known as the Linger Ranch or Stewart Ranch and more recently known as the Mossman-Gladden Tract, lying within the Tierra Amarilla Grant, Private Land Claim No. 3, as conveyed to Francisco Martinez on February 21, 1881, by the U.S. Congress in compliance with a Treaty of Peace Between the United States and Mexico ratified on February 2, 1848, and commonly known as the Treaty of Guadalupe Hidalgo, in Rio Arriba County, New Mexico, and being more particularly described as follows:

Unless otherwise noted, all of the following description is as shown on the plat titled ''ALTA/ACSM Land Title Survey for Fred M. & Janie L. Mossman and Frederick Andrew Mossman, The North Half of the Mossman-Gladden Tract (Also Known as 'The Old Linger Ranch'), A Portion of the Historic Rivera/Braiden Tract, Lying East of the Village of Chama, Within the Tierra Amarilla Grant, Rio Arriba County, New Mexico,'' by William H. Albert, New Mexico Professional Surveyor No. 7241, filed in the Office of the County Clerk, Rio Arriba County, New Mexico, on July 9, 1998, in Plat Book P–980, page 5719, as Document No. 148881. Bearings are grid and based on the New Mexico State Plane Coordinate System, Central Zone, NAD 27.

Beginning at Mile Post 26 on the easterly boundary of the Tierra Amarilla Grant as surveyed by the U.S. Deputy Surveyors for the U.S. Surveyor General in July of 1876 and as resurveyed by the U.S. General Land Office in 1932, being a point on the westerly boundary of the Carson National Forest, which is also a point on the east boundary of the herein described Mossman Tract;

Thence along said easterly boundary of said Tierra Amarilla Grant and said westerly boundary of said Carson National Forest, along a portion of the east boundary of the Mossman Tract, in a southeasterly direction as follows:

S. 53°03′41″ E. a distance of 2,552.66 feet to a brass cap found at Mile Post 25½;

S. 53°07′42″ E. a distance of 2,550.81 feet to a brass cap found at Mile Post 25;

S. 53°00′43″ E. a distance of 2,224.76 feet to a ½″ rebar with PS 7241 cap found at the southeast corner of the Mossman Tract, whence Mile Post 24½ bears S. 52°58′16″ E. a distance of 323.80 feet;

Thence S. 77°25′42″ W. a distance of 21,974.20 feet along the south boundary of the Mossman Tract, which is also along the northerly boundary of the Swanson Tract as shown on the above-described 1998 Albert plat, to a ½″ rebar with PS 7241 cap found at the southwest corner of the Mossman Tract, a point on the meander line of the divide between the Brazos River and Canones Creek watersheds being the dividing line between the herein described Mossman Tract property and the property to the west held by the United States of America in trust for the Jicarilla Apache Nation and known as the Chama Ranch, and formerly owned by the Jicarilla Apache Tribe (now Nation) and by the Chama Land & Cattle Company;

Thence northwesterly following and meandering the divide, along the west boundary of the Mossman Tract, which is the boundary between the herein described tract and the said Jicarilla Apache Nation's Chama Ranch, as follows:

N. 70°27′25″ W. a distance of 239.47 feet to a found stone marked ''VJ'';

N. 41°29′05″ W. a distance of 539.50 feet to a found ½″ rebar with PS 7241 cap;
N. 63°58′21″ W. a distance of 369.69 feet to a found ½″ rebar with PS 7241 cap;
N. 87°05′46″ W. a distance of 818.09 feet to a found ½″ rebar with PS 7241 cap;
N. 65°04′52″ W. a distance of 1,195.81 feet to a found 2½″ × 10′ fence post;
N. 07°43′38″ E. a distance of 1,704.80 feet to a point in a rock boil;
N. 05°37′06″ W. a distance of 1,823.47 feet to a set ½″ rebar with PS 7241 cap;
N. 13°51′44″ W. a distance of 983.46 feet to a set ½″ rebar with PS 7241 cap;
N. 47°25′43″ W. a distance of 1,043.01 feet to a set ½″ rebar with PS 7241 cap;
N. 16°34′39″ W. a distance of 757.48 feet to a point in a rock boil;
N. 03°53′23″ W. a distance of 2,405.07 feet to a point;
N. 27°24′14″ W. a distance of 598.42 feet to a ¾″ iron pipe marked ''VJ 36'' found at the northwest corner of the Mossman Tract, a point common to said Jicarilla Apache Nation's Chama Ranch property, the BLOK Corporation Tract, and the herein described tract, from which point New Mexico State Engineer's Office (N.M.S.E.O.) brass cap control station ''CABLE'' bears S. 86°28′29″ W., a distance of 43,990.84 feet (at mean elevation of 7,772 feet) (**Note:** Control station ''CABLE'' has New Mexico State Plane Coordinate System Central Zone (NAD27), U.S. survey feet coordinates of y = 2,142,009.14 and x = 400,596.13 (these coordinates were obtained directly from the State Engineer's Office in Santa Fe—the above-described 1998 Albert plat erroneously lists the x coordinate as 400,*4*96.13); the combined grid to ground factor used in the above-described 1998 Albert survey is 1.0004620520 and was computed at N.M.S.E.O. ''CABLE'' using the mean elevation of 7,772 feet.);

Thence N. 88°53′20″ E. a distance of 4789.67 feet along a portion of the north boundary of the Mossman Tract, which is also along the southerly boundary of the said BLOK Corporation Tract, to a ½″ rebar with PS 7241 cap set at the point common to the said BLOK Corporation Tract, the Rivera Tract, and the herein described Mossman Tract, as shown on the above-described 1998 Albert plat.

Thence N. 88°53′20″ E. a distance of 14,711.56 feet along a portion of the north boundary of the Mossman Tract, which is also along the southerly boundary of the said Rivera Tract, the Cohn Tract, and the Salazar Tract as shown on the above-described 1998 Albert plat, to a ½″ rebar with PS 7241 cap set at the fence corner for the northeast corner of the Mossman Tract, being a point on said easterly boundary of said Tierra Amarilla Grant and said westerly boundary of said Carson National Forest, whence Mile Post 26½ bears N. 23°11′38″ W. a distance of 1302.86 feet;

Thence S. 23°11′38″ E. a distance of 1,311.00 feet along said easterly boundary of said Tierra Amarilla Grant and said westerly boundary of said Carson National Forest, along a portion of the east boundary of the Mossman Tract, to Mile Post 26 and the point and place of beginning.

The above-described lands contain a total of 4,137.00 acres, more or less, which are subject to all valid rights, reservations, rights-of-way, and easements of record.

This proclamation does not affect title to the land described above, nor does it affect any valid existing easements for public roads and highways, public utilities and for railroads and pipelines and any other rights-of-way or reservations of record.

Dated: July 16, 2008.

George T. Skibine,

Acting Deputy Assistant Secretary for Policy and Economic Development.

[FR Doc. E8–17233 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–10709, AA–11793; AK–962–1410–HY–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Bering Straits Native Corporation for lands located in the vicinity of Saint Michael, Alaska. Notice of the decision will also be published four times in the Nome Nugget.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until August 27, 2008 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Dina L. Torres,

Land Transfer Resolution Specialist, Resolution Branch.

[FR Doc. E8–17206 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Provide Opportunity To Comment on Changes to the Eastern San Diego County Proposed Resource Management Plan

ACTION: Notice.

SUMMARY: The BLM is soliciting comments, electronic or written, on significant changes and clarifications (collectively ''changes'') to the Proposed Plan as set forth in the PRMP for wind energy and VRM. The environmental consequences of the proposed changes and clarification have been analyzed as part of the RMP/EIS process. After considering public comments on these changes, BLM will issue a Record of Decision (ROD) for the Eastern San Diego County Resource Management Plan.

DATES: Written comments on the changes to the PRMP will be accepted until August 27, 2008.

ADDRESSES: Written comments should be submitted to Erin Dreyfuss, Planning and Environmental Coordinator, BLM El Centro Field Office, 1661 S. 4th Street, El Centro, CA 92243. Comments may also be e-mailed to *caesdrmp@.ca.blm.gov* or faxed to (760) 337–4490 *Attention:* Erin Dreyfuss, Planning and Environmental Coordinator.

FOR FURTHER INFORMATION CONTACT: Erin Dreyfuss, Planning and Environmental Coordinator, or Thomas Zale, Associate Field Manager, at (760) 337–4400.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency (EPA) published the Notice of Availability (NOA) for the Eastern San Diego County Draft Resource Management Plan and Draft Environmental Impact Statement (DRMP/EIS) in the **Federal Register** on March 2, 2007, which initiated a 90-day comment period.

The EPA published the NOA for the Eastern San Diego County Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP/FEIS) in the **Federal Register** on December 7, 2007, which initiated the 30-day protest period. The PRMP/FEIS identified Alternative E as the Proposed Plan. The BLM received nine (9) protest letters. In response to protests and based on additional policy discussions, the BLM will clarify and make changes to the Proposed Plan as set forth in the PRMP.

Comments (written or electronic) submitted during the 30-day public comment period will be available for public review at the El Centro Field Office during regular business hours 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays, and will be subject to disclosure under the Freedom of Information Act.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The clarification and changes include: (1) Modifying renewable energy (wind) related proposals and (2) clarifying and modifying Visual Resource Management (VRM) proposals and classifications. This Notice identifies the clarifications and changes and initiates a 30-day public notice and comment period. (43 CFR 1610.2(f)(5) and 43 CFR 1610.5–1(b)).

1. Renewable Energy (Wind)—Proposed Changes

The BLM is changing the Proposed Plan, as it was set forth in the PRMP, to allow for additional lands in the planning area to be available for wind energy development. This change is being made in response to issues raised during the protest period, in addition to internal policy discussions.

Concerns have been raised by the public that the Eastern San Diego County PRMP is overly restrictive regarding wind energy development and is not adequately responsive to national goals and directives, summarized herein, regarding renewable energy development on public lands. On May 18, 2001, the President issued Executive Order 13212, *Actions to Expedite Energy-Related Projects*, establishing a policy that federal agencies should take appropriate actions, to the extent consistent with applicable law, to expedite projects to increase the production, transmission, or conservation of energy. Also in 2001, the President's National Energy Policy Development Group (NEPDG) recommended to the President, as part of the *National Energy Policy Report*, that the Departments of the Interior, Energy, Agriculture, and Defense work together to increase renewable energy production (NEPDG 2001). The Energy Policy Act of 2005 states that ''the Secretary of the Interior should, before the end of the 10-year period beginning on the date of enactment of this Act, seek to have approved non-hydropower renewable energy projects located on the public lands with a generation capacity of at least 10,000 megawatts of electricity.'' § 211 Energy Policy Act (2005), Public Law 109–58. Based on a broad scale assessment of wind energy potential in the western United States, the Department of Energy determined that the Eastern San Diego County planning area has approximately 33,100 acres of land with high quality wind resources. From that total, BLM excludes designated Wilderness Areas, Wilderness Study Areas, and Areas of Critical Environmental Concern from wind energy development. These exclusions are consistent with the *Record of Decision* for the *Final Programmatic EIS for Wind Energy Development on BLM-Administered Lands in the Western United States*, which was published in December 2005.

BLM also has the discretion to exclude other areas from wind energy development where significant resource impacts or conflicts cannot be mitigated. Other areas that were excluded from wind energy development in the original PRMP include, but are not limited to, designated critical habitat, recreation areas and an existing utility corridor. In applying all of these restrictions, the acres of high quality wind resources available for renewable energy development in the planning area would be reduced to 16,078 acres. Under the original PRMP, many of these remaining lands were designated as VRM Management Class II where wind energy development would likely not comply with the objectives of that management class.

In recognition of concerns raised by the public and in an effort to meet its goals to support renewable energy development on public lands, the BLM is changing the PRMP regarding wind energy in the vicinity of McCain Valley consistent with Alternative D. Specifically, the BLM proposes to designate McCain Valley East (3,635 acres outside of ACECs and WSAs) and McCain Valley West (8,560 acres) as VRM Management Class IV (These areas were designated as VRM Management Class II and III, respectively, in the original PRMP, p. 2–58 and Map 2–5). For more information on the objectives of each VRM Management Class, see the PRMP/FEIS p. 2–57. Please refer to the following table for a comparison of the PRMP changes to VRM Management Classes. The BLM also proposes to make recreation areas in McCain Valley available for renewable energy development consistent with Alternative D. This includes Lark Canyon Off-Highway Vehicle Area and the Lark Canyon Campground/Staging Area (1,300 acres) and Cottonwood Campground (16 acres) (PRMP/FEIS Alternative D, p. 2–110).

Classification of lands	Original PRMP acres	Changed PRMP acres
VRM Class I	61,908	61,908
VRM Class II	31,623	28,033
VRM Class III	9,288	693
VRM Class IV	51	12,236
Total	102,870	102,870

High quality wind resources in McCain Valley and its proximity to the existing utility corridor make it a logical area to focus wind energy development in the planning area. Furthermore, wind energy development currently exists in McCain Valley and is visible in the area. Wind energy development and recreation can effectively coexist in McCain Valley. This decision is consistent with the *Record of Decision* for the *Final Programmatic EIS for Wind Energy Development on BLM-Administered Lands in the Western United States* (December 2005). Appropriate mitigation would be required for all future development on or adjacent to recreation areas to minimize user conflicts and degradation of the recreational experience.

2. Visual Resource Management—Proposed Clarification

As part of its protest analysis, the BLM found that it needed to clarify its description of land use restrictions in VRM Management Classes. BLM is required to manage all uses and

activities consistent with an area's VRM Management Class as established in the RMP. It is not BLM policy to determine, at the RMP level, which land uses or activities to restrict based on VRM Management Class. Rather, BLM must consider, at the site specific activity level, all uses proposed for an area with a given VRM Management Class and determine if those uses would be consistent with the objectives for that Class.

Therefore, the RMP will be clarified by removing the following restrictions (this will not impact RMP decisions related to designated critical habitat, Wilderness Study Areas (WSAs), or Areas of Environmental Concern (ACECs)):

- VRM Management Class II areas are closed to leasable mineral entry under the Proposed Plan (PRMP/FEIS p. 2–77). Removal of this restriction will result in an additional 27,387 acres open to leasable mineral entry in the planning area (34,993 acres total).
- VRM Management Class II areas are exclusion areas for renewable energy under the Proposed Plan (PRMP/FEIS p. 2–110). Removal of this restriction will result in an additional 27,327 acres available for renewable energy in the planning area (34,259 acres total).
- VRM Management Class II areas are avoidance areas for all land use authorizations under the Proposed Plan (other than renewable energy which is described above) (PRMP/FEIS p. 2–110). Removal of this restriction will allow BLM to consider issuing land use authorizations on approximately 31,600 acres of land designated as VRM Management Class II in the planning area, outside of designated critical habitat, WSAs, and ACECs.

All future development in the planning area would adhere to the VRM Management Class objectives established in the RMP (PRMP/FEIS p. 2–57). For example, VRM Class II objectives require that the existing character of the landscape be retained and that the level of change to be low. In order to meet these objectives, BLM expects that the level of development in VRM Management Class II would be very minimal. BLM will utilize visual resource design techniques and best management practices to mitigate the potential visual impacts. Visual contrast ratings will be required for all major projects proposed for VRM Management Class I, II, and III areas which have high sensitivity levels. In areas where VRM Management Class objectives cannot be met through design techniques and/or best management practices, BLM has the authority to deny the project. (PRMP/FEIS p. 2–57 and 2–58).

Mike Pool,

State Director, California.

[FR Doc. E8–17208 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–956–1420–BJ–TRST; Group No. 186, Minnesota]

Eastern States: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plat of Survey; Minnesota.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM-Eastern States, Springfield, Virginia, 30 calender days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153. Attn: Cadastral Survey.

SUPPLEMENTARY INFORMATION: This survey was requested by the Bureau of Indian Affairs.

The lands we surveyed are:

Fifth Principal Meridian, Minnesota

T. 146 N., R. 39 W.

The plat of survey represents the dependent resurvey of a portion of the east, south and west boundaries and a portion of the subdivisional lines; and the survey of the subdivision of sections 23–26, 31, 32, and 35, Township 146 North, Range 39 West, Fifth Principal Meridian, Minnesota, and was accepted July 10, 2008. We will place a copy of the plat we described in the open files. It will be available to the public as a matter of information.

If BLM receives a protest against this survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: July 14, 2008.

Ronald J. Eberle,

Acting Chief Cadastral Surveyor.

[FR Doc. E8–17207 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

MMS Information Collection Activity: 1010–0082, 30 CFR Part 281, Leasing of Minerals Other Than Oil, Gas and Sulphur in the Outer Continental Shelf, Reinstatement—Not Violation of a Collection; Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of a reinstatement of an information collection (1010–0082).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR part 281, Leasing of Minerals Other than Oil, Gas, and Sulphur in the Outer Continental Shelf. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by August 27, 2008.

ADDRESSES: You should submit comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0082), either by fax (202) 395–6566 or e-mail (*OIRA_DOCKET@omb.eop.gov*).

Please also send a copy to MMS by mail or hand-carry comments to the Department of the Interior, Minerals Management Service, Attention: Cheryl Blundon, 381 Elden Street, MS–4024, Herndon, Virginia 20170–4817. Please reference ''Information Collection 1010–0082'' in your subject line and mark your message for return receipt. Include your name and return address in your message text.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch, (703) 787–1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 281, Leasing of Minerals Other than Oil, Gas, and Sulphur in the Outer Continental Shelf.

OMB Control Number: 1010–0082.

Abstract: Section 8(k) of the Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1337), authorizes the Secretary of the Interior (Secretary)

to grant to the qualified persons, offering the highest cash bonuses on a basis of competitive bidding, leases of any mineral other than oil, gas, and sulphur in any area of the OCS not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease. The Secretary is to administer the leasing provisions of the Act and prescribe the rule and regulations necessary to carry out those provisions.

Regulations implementing these responsibilities are under 30 CFR part 281. Responses are mandatory or required to obtain or retain a benefit. No questions of a sensitive nature are asked. The MMS protects information considered proprietary according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2, and 30 CFR parts 280 and 282).

The MMS would use the information required by 30 CFR part 281 to determine if statutory requirements are met prior to the issuance of a lease. Specifically, MMS would use the information to:

- Evaluate the area and minerals requested by the lessee to assess the viability of offering leases for sale.
- Request the State(s) to initiate the establishment of a joint working group or task force to assess the proposed action and provide input.
- Ensure excessive overriding royalty interests are not created that would put economic constraints on all parties involved.
- Document that a leasehold or geographical subdivision has been surrendered by the record title holder.
- Determine if activities on the proposed lease area(s) will have significant impact on the environment.

There has been no activity in the OCS for minerals other than oil, gas and sulphur for many years and no information collected since we allowed the OMB approval to expire in 1991. However, because these are regulatory requirements, the potential exists for information to be collected, and we are requesting that OMB reinstate this collection of information.

Frequency: On occasion.

Estimated Number and Description of Respondents: There are no active respondents; therefore, we estimated the potential annual number of respondents to be one.

Estimated Reporting and Recordkeeping ''Hour'' Burden: The estimated annual ''hour'' burden for this information collection is a total of 1,248 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 281	Reporting and/or recordkeeping requirements	Hour burden	Average number of annual reponses	Annual burden hours
		Non-hour cost burden(s)		
Subpart A—General				
6	Appeal decisions	Exempt under 5 CFR 1320.4(a)(2), (c)		0
Subpart B—Leasing Procedures				
11(a), (c)	Request approval for mineral lease with relevant information	60	1	60
All sections	Submit response to Call for Information and Interest on areas for leasing of minerals (other than oil, gas, sulphur) in accordance with approved lease program, including information from States/local governments.	120	1	120
13	States or local governments submit comments/recommendations on planning, coordination, consultation, and other issues that may contribute to the leasing process.	200	1	200
All sections	Submit suggestions and relevant information in response to request for comments on proposed lease including information from States/local governments.	160	1	160
18(a), (b), (c); 20(e), (f); 26(a)	Submit bids (oral or sealed) and required information	250	1	250
18(c); 20(e), (f)	Tie bids—submit oral bids for highest bidder	20	1	20
20(a), (b), (c); 41(a)	Establish a Company File for qualification; submit updated information, submit qualifications for lessee/bidder.	58	1	58
21(a); 47(c)	Request for reconsideration of bid rejection/cancellation	Requirement not considered IC per 5 CFR 1320.3(h)(9)		0
Subtotal			7	868

Citation 30 CFR 281	Reporting and/or recordkeeping requirements	Hour burden	Average number of annual reponses	Annual burden hours
		Non-hour cost burden(s)		
Subpart C—Financial Considerations				
26; 21(b), (e); 40(b); 41(b)	Execute lease (includes submission of evidence of authorized agent and request for dating of leases).	100	1	100
31(b); 41	File application and required information for assignment or transfer for approval.	160	1	160
		$50 required or non-required filing document fee × 1 = $50		
32(b), (c)	File application for waiver, suspension, or reduction and supporting documentation.	80	1	80
33; 41(c)	Submit surety or personal bond	Burden covered under 1010–0081		0
Subtotal			3	340
			$50 non-hour cost burden	
Subpart E—Terminaton of Leases				
46(a)	File written request for relinquishment	40	1	40
Total Burden			11	1,248
			$50 non-hour cost burden	

Estimated Reporting and Recordkeeping "Non-Hour Cost" Burden: We have identified one non-hour cost burden. In § 281.41, respondents would pay a $50 application fee for any instrument to be filed (see the burden table). We have identified no other non-hour cost burdens for this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on September 24, 2007, we published a **Federal Register** notice (72 FR 54283) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 282.0 provides the OMB control number for the information collection requirements imposed by the 30 CFR part 282 regulations. The PRA (5 U.S.C. 1320) informs the public that they may comment at any time on the collection of information and MMS provides the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by August 27, 2008.

Public Availability of Comments: Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

May 15, 2008.

E.P. Danenberger,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. E8–17185 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Minerals Management Service Request for Public Nominations to the Royalty Policy Committee

AGENCY: Minerals Management Service, Interior.

ACTION: Request for Nominations.

SUMMARY: The Director of the Minerals Management Service (MMS) is requesting nominations for three public representatives to serve on the Department's Royalty Policy Committee (RPC). These nominations may originate from State and local governments, universities, organizations, or individuals, and they may include self-nominations.

DATES: Submit nominations on or before August 15, 2008.

ADDRESSES: Submit nominations to Gina Dan, Coordinator, Royalty Policy Committee, Minerals Revenue Management, Minerals Management Service, P. O. Box 25165 Mail Stop 300B2, Denver, Colorado 80225–0165.

FOR FURTHER INFORMATION CONTACT: Gina Dan, Office of the Deputy Associate Director, Minerals Revenue Management, Minerals Management Service, Denver, Colorado 80225–0165, telephone (303) 231–3392.

SUPPLEMENTARY INFORMATION: Nominees should have the expertise in royalty management issues necessary to represent the public interest. The nomination package must include an updated copy of the nominee's resume or biography including their mailing and e-mail addressees.

The MMS is committed to the Department's diversity policy, and nominators are requested to consider diversity when making nominations. Members serve without pay but will be reimbursed for travel expenses incurred when attending official RPC meetings. Reimbursements will be calculated in accordance with the Federal Travel Regulations as implemented by the Department.

The RPC provides advice related to the performance of discretionary functions under the laws governing the Department of the Interior's management of Federal and Indian mineral leases and revenues. The RPC reviews and comments on revenue management and other mineral-related policies and provides a forum to convey views representative of mineral lessees, operators, revenue payors, revenue recipients, governmental agencies, and the interested public. The location and dates of future RPC meetings and other information will be published in the **Federal Register** and posted on the Internet at *http://www.mrm.mms.gov/Laws_R_D/RoyPC/RoyPC.htm*. Meetings are open to the public without advance registration, on a space-available basis. The public may make statements during the meetings, to the extent time permits, and file written statements with the RPC for its consideration. Copies of these written statements should be submitted to Ms. Dan. The RPC meetings are conducted under the authority of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 1) and the Office of Management and Budget (Circular No. A–63, revised).

All correspondence, records, or information received in response to this Notice may be subject to disclosure under the Freedom of Information Act. In your submittal, please highlight any proprietary portions or mark any page(s) that might contain proprietary data. Proprietary information may be protected by the Freedom of Information Act (5 U.S.C. 552(b)(4), the Department regulations (43 CFR part 2), and the Trade Secrets Act (18 U.S.C. 1905).

Dated: July 9, 2008.

Richard J. Adamski,

Acting Associate Director for Minerals Revenue Management.

[FR Doc. E8–17162 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before July 12, 2008. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by August 12, 2008.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

MARYLAND

Carroll County

Roop's Mill, 1001, 1019 Taneytown Pike, Westminster, 08000796

MASSACHUSETTS

Bristol County

Wamsutta Mills, Acushnet Ave., Logan, Wamsutta and N. Front St., New Bedford, 08000794

Suffolk County

Joshua Bates School, 731 Harrison Ave., Boston, 08000793

Ohabei Shalom Cemetery, 147 Wordsworth St., Boston, 08000795

MISSOURI

Newton County

Lentz-Carter Merchandise Store, 744 Ozark St., Stella, 08000799

NEW MEXICO

Dona Ana County

Green Bridge, (Historic Highway Bridges of New Mexico MPS) 4100 Dripping Springs Rd., Las Cruces, 08000791

RHODE ISLAND

Providence County

General Ice Cream Corporation Building, 485 Plainfield St., Providence, 08000788

SOUTH DAKOTA

Aurora County

Patten Consolidated School, (Schools in South Dakota MPS) 37196 241st St., White Lake, 08000797

Underwood United Methodist Church, 24183 373rd Ave., White Lake, 08000798

VERMONT

Windsor County

Bridge 15, (Metal Truss, Masonry, and Concrete Bridges in Vermont MPS) F.A.S. Hwy 177, Sharon, 08000792

WISCONSIN

Oconto County

Mountain Fire Lookout Tower, Forest Service Rd. 2335 (Tower Rd.) Lakewood Ranger District, Nicolet National Forest, Riverview, 08000790

WISCONSIN

Washington County

West Bend Chicago and North Western Depot, Veterans Ave. at Willow La., West Bend, 08000789

[FR Doc. E8–17188 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

American Basin Fish Screen and Habitat Improvement Project

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the Final Environmental Impact Statement/ Environmental Impact Report (Final EIS/EIR).

SUMMARY: The Bureau of Reclamation (Reclamation), the National Environmental Policy Act Federal lead agency, and the California Department of Fish and Game (DFG), the California Environmental Quality Act State lead agency have prepared a Final EIS/EIR for the American Basin Fish Screen and Habitat Improvement Project (Project). The Project is located in northwestern Sacramento County and southern Sutter County. The Project modifies the Natomas Mutual Water Company's water diversion from the Sacramento River and distribution system, thereby avoiding and minimizing potentially adverse affects to fish, particularly juvenile anadromous fish.

The Notice of Availability of the Draft EIS/EIR was published in the **Federal Register** on March 3, 2008 (Volume 73, No. 42). The written comment period on the Draft EIS/EIR ended May 2, 2008. The Final EIS/EIR contains responses to all comments received and any additional information received during the review period.

DATES: After the 30-day circulation of the Final EIS/EIR, Reclamation will prepare a Record of Decision (ROD). The ROD will state the decision and will identify and discuss relevant factors considered in the decision.

ADDRESSES: A compact disc or copy of the Final EIS/EIR may be requested from Mr. Brad Hubbard, by writing to the Bureau of Reclamation, 2800 Cottage Way, MP–400, Sacramento, CA 95825; by calling 916–978–5204; or by e-mailing *bhubbard@mp.usbr.gov*. The Final EIS/EIR is also accessible from the following Web site: *http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=783*. See the Supplementary Information section for locations where copies of the Final EIS/EIR are available for public review.

FOR FURTHER INFORMATION CONTACT: Mr. Brad Hubbard, Bureau of Reclamation, at 916–978–5204; or Mr. James Navicky, Environmental Scientist, California Department of Fish and Game, at 916–358–2926.

SUPPLEMENTARY INFORMATION: The Draft EIS/EIR evaluated impacts related to constructing and operating one or two positive-barrier fish screen diversion facilities; decommissioning and removing the Verona Diversion Dam and lift pumps; removing five pumping plants and one small private diversion; and modifying the distribution system. The Draft EIS/EIR documented the direct, indirect, and cumulative effects to the physical, natural, and socioeconomic environment that may result from implementation of one of the alternatives. Copies of the Final EIS/EIR are available for public review at the following locations:

- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, Colorado 80225; *telephone:* 303–445–2072.
- Bureau of Reclamation, Mid-Pacific Region, Regional Library, 2800 Cottage Way, Sacramento, California 95825; *telephone:* 916–978–5100.
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street, NW., Main Interior Building, Washington, DC 20240–0001.
- California Department of Fish and Game, North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670; *telephone:* 916–358–2900.
- Natomas Mutual Water Company, 2601 West Elkhorn Boulevard, Rio Linda, CA 95673; *telephone:* 916–419–5936.

Before including your name, address, phone number, e-mail address, or other personal identifying information in any correspondence, you should be aware that your entire correspondence—including your personal identifying information—may be made publicly available at any time. While you can ask us in your correspondence to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 3, 2008.

John F. Davis,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. E8–17229 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Lake Casitas Resource Management Plan (RMP), Ventura County, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the draft Environmental Impact Statement (EIS) and notice of public hearing.

SUMMARY: The Bureau of Reclamation (Reclamation), as the National Environmental Policy Act Federal lead agency, has made available for public review and comment the Lake Casitas draft EIS. The draft EIS describes and presents the environmental effects of the No-Action Alternative and two (2) Action Alternatives. A public hearing will be held to receive comments from individuals and organizations on the draft EIS.

DATES: Written comments on the draft EIS will be accepted on or before *September 26, 2008*.

A public hearing has been scheduled to receive oral or written comments regarding environmental effects. The hearing will be held from 6:30 p.m. to 9 p.m. on August 28, 2008 in Oak View, CA.

ADDRESSES: Send written comments on the draft EIS to Mr. Robert Epperson, Bureau of Reclamation, 1243 N Street, Fresno, CA 93721.

The public hearing will be held at Oak View Park and Resource Center, 555 Mahoney Avenue, Oak View, CA 93022.

Copies of the draft EIS may be requested from Mr. Robert Epperson, by writing to Bureau of Reclamation, 1243 N Street, Fresno, CA 93721; by calling 559–269–4518 (TDD 559–487–5933); or by e-mailing *repperson@mp.usbr.gov*.

The draft EIS is also accessible from the following Web site: *http://www.usbr.gov/mp/casitas/docs/index.html*. See **SUPPLEMENTARY INFORMATION** Section for locations where copies of the draft EIS are available for public review.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Epperson, Bureau of Reclamation, at 559–269–4518 (TDD 559–487–5933) or *repperson@mp.usbr.gov*.

SUPPLEMENTARY INFORMATION: The draft EIS documents the direct, indirect, and cumulative effects to the physical, biological, and socioeconomic environment that may result from various resource management alternatives at Lake Casitas.

The Lake Casitas draft EIS evaluates the existing resource management at Lake Casitas. The project purpose consists of: (1) Protecting the water supply and water quality functions of Lake Casitas; (2) protecting and enhancing the natural and cultural resources in the Plan area, consistent with federal law and Reclamation policies; and (3) providing recreational opportunities and facilities consistent with the original Lake Casitas project purposes, Reclamation policies, and state water policies.

Lake Casitas is an existing reservoir formed by Casitas Dam, and located in Ventura County, California. The dam, which stores water for irrigation, municipal and industrial use within the Casitas Municipal Water District (CMWD), was completed in November 1958. Lake Casitas has a storage capacity of 254,000 acre-feet and delivers between 15,000 and 23,000 acre-feet each year. Although Reclamation owns Casitas Dam, the CMWD owns and operates the Plan Area pursuant to the 1956 agreement for the Ventura River Project. The 1956 agreement did not consider the current level of recreation activity the Plan Area now serves. Therefore, under a new long-term management agreement, the managing partner for the Open Space Lands may be different than the managing partner for the Park. The RMP will have a planning horizon of 25 years, and will begin when a new management agreement is reached between Reclamation and the managing partner(s).

The new plan would: (1) Ensure safe storage and timely delivery of high-quality water to users while enhancing natural resources and recreational opportunities; (2) protect natural resources while educating the public about the value of good stewardship; (3) provide recreational opportunities to meet the demands of a growing, diverse population; (4) ensure recreational diversity and the quality of the experience; and (5) provide the updated management considerations for establishing a new management agreement with the managing partner(s).

The draft EIS outlines the formulation and evaluation of alternatives designed to address these issues by representing the varied interests present at the Plan Area. Alternative 1 (No Action) would continue current management practices. Alternative 2 (Enhancement) would balance natural resource protection with recreation opportunities. Alternative 3 (Recreation Expansion) would emphasize expanded recreation opportunities.

The draft EIS has been developed within the authorities provided by Congress through the Reclamation Recreation Management Act of 1992 (Pub. L. 102–575, Title 28, U.S.C. 460L), Title IV of the Recreational Development Act of 1984 (Pub. L. 93–493), Reclamation Act, Federal Water Project Recreation Act, and other applicable Federal agency and U.S. Department of the Interior policies.

Copies of the draft EIS are available for public review at the following locations:

- Bureau of Reclamation, Mid-Pacific Region, Regional Library, 2800 Cottage Way, Sacramento, CA 95825.
- Bureau of Reclamation, South-Central California Area Office, 1243N Street, Fresno, CA 93721.
- Ojai Ranger District Station, 1190 East Ojai Avenue, Ojai, CA 93023.
- E.P. Foster Public Library, 651 Main Street, Ventura, CA 93001.
- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO 80225.
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street, NW., Main Interior Building, Washington, DC 20240–0001.

Public Hearings

A brief presentation, including a project overview, will open the public hearing. This will be followed by an open house during which individual concerns and questions will be addressed through interaction with the project team.

If special assistance is required at the public hearings, please contact Mr. Robert Epperson at 559–269–4518, TDD 559–487–5933, or by e-mailing *repperson@mp.usbr.gov*. Please notify Mr. Epperson as far in advance as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified.

Public Disclosure

Before including your name, address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 3, 2008.

John F. Davis,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. E8–17230 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

North San Pablo Bay Restoration and Reuse Project, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an environmental impact statement/environmental impact report (EIS/EIR) and notice of public scoping meetings.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), the Bureau of Reclamation (Reclamation), the lead Federal agency, and the Sonoma County Water Agency, acting as administrator for the North Bay Water Reuse Authority (NBWRA) and the lead State agency, will prepare a joint EIS/EIR for the proposed North San Pablo Bay Restoration and Reuse Project (Proposed Action). The purpose of the Proposed Action is to create a regional wastewater reuse project to provide recycled water for agricultural, urban, and environmental uses as an alternative to discharging treated wastewater to San Pablo Bay. In this way, water demand issues and wastewater discharge issues of the region can be addressed in an integrated and synergistic manner.

DATES: A series of scoping meetings will be held to solicit public input on the scope of the environmental document, alternatives, concerns, and issues to be addressed in the EIS/EIR. The scoping meeting dates are:

- Monday, August 4, 2008, 6:30 p.m. to 7:30 p.m., Napa, CA.
- Tuesday, August 5, 2008, 6:30 p.m. to 7:30 p.m., Novato, CA.
- Wednesday, August 6, 2008, 6:30 p.m. to 7:30 p.m., Sonoma Community Center, 276 East Napa Street, Sonoma, CA.

Written comments on the scope of the EIS/EIR will be accepted until August 20, 2008.

ADDRESSES: The public scoping meetings will be held at:

- Napa at Napa Elks Lodge, 2840 Soscol Avenue.
- Novato at Margaret Todd Senior Center, 1560 Hill Road.
- Sonoma at Sonoma Community Center, 276 East Napa Street.

Written comments on the scope of the EIS/EIR should be sent to Mr. Marc Bautista, Sonoma County Water Agency, 404 Aviation Boulevard, Santa Rosa, CA 95403; or e-mailed to *Marc.Bautista@scwa.ca.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Bautista, Sonoma County Water Agency (SCWA) at the SCWA general telephone number 707–547–1998, e-mail at: *mbautista@scwa.ca.gov*; or Mr. David White, Reclamation, at 916–978–5074, e-mail at: *dtwhite@mp.usbr.gov*.

SUPPLEMENTARY INFORMATION:

Background

The NBWRA, comprised of four wastewater utilities and one water

agency in the North San Pablo Bay region of California, plans to expand the use of recycled water and reduce discharge into San Pablo Bay with this long-term inter-agency project. The area encompasses 318 square miles of land in Marin, Sonoma, and Napa Counties. Participants include Las Gallinas Valley Sanitation District (LGVSD), Novato Sanitation District (Novato SD), Sonoma Valley County Sanitation District (SVCSD), and Napa Sanitation District (Napa SD). In addition, North Marin Water District and the County of Napa are participating financially and providing support. Sonoma County Water Agency is acting as project administrator, and will be the CEQA Lead Agency. Reclamation is the federal lead agency for NEPA because the Proposed Action may be partially federally funded under Title XVI of Public Law 102–575, as amended, which provides a mechanism for federal participation and cost sharing in approved water reuse projects.

The North San Pablo Bay regions of Sonoma, Marin and Napa Counties are facing long-term water supply short-falls. Surface and groundwater supplies within these areas are limited, and some local groundwater basins are over-pumped, with detrimental effects on water levels and water quality. Recycled water can augment local water supplies on a regional basis, provide water that meets agricultural and municipal non-potable quality needs, and provide increased reliability.

Additionally, a clean, reliable water supply is needed in order to continue the restoration of tidal wetlands in San Pablo Bay that contain habitat for endangered and threatened species. Wastewater treatment agencies also face strict regulatory limits on the timing and quality of the treated wastewater they can discharge to San Pablo Bay, as well as the rivers and streams that flow to it. By treating wastewater to the stricter regulatory levels required for reuse, the agencies can recycle the water productively to address water supply needs and reduce the amount released to San Pablo Bay and its tributaries.

The public could benefit through the reduction in use of natural regional surface and groundwater supplies, the reduction of wastewater discharge to regional waterways, and the resulting environmental benefit to fish and wildlife. By working cooperatively, the participants increase opportunities for state and federal grants, and cost sharing opportunities, that lower costs to customers.

NBWRA has developed a regional program for expanding cooperative water reuse within the North San Pablo Bay region. The Proposed Action consists of distribution facilities, treatment capacity improvements, and storage to make between 17,000 and 25,000 acre-feet per year of recycled water available for environmental, agricultural, and municipal reuse, consistent with the California Code of Regulations, Title 22, pertaining to the use of tertiary-treated recycled water.

At this time, there are no known or possible Indian trust assets or environmental justice issues associated with the Proposed Action.

Special Assistance for Public Scoping Meetings

If special assistance is required to participate in the public hearings, please contact David White at 916–978–5074, TDD 916–978–5608, or via e-mail at *dtwhite@mp.usbr.gov*. Please notify Mr. White as far in advance as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified. A telephone device for the hearing impaired (TDD) is available at 916–978–5608.

Public Disclosure

Before including your name, address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 4, 2008.

Susan M. Fry,

Regional Environmental Officer, Mid-Pacific Region.

[FR Doc. E8–17228 Filed 7–25–08; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,802]

Shorewood Packaging Corporation, a Subsidiary of International Paper, Home Entertainment Division, Edison, NJ; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated June 9, 2008, a petitioner requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) applicable to workers and former workers of the subject firm. The determination was issued on May 13, 2008. The Notice of Determination was published in the **Federal Register** on May 29, 2008 (73 FR 30978).

The initial investigation resulted in a negative determination based on the finding that imports of printed paper primarily for music and gaming packaging did not contribute importantly to worker separations at the subject firm and no shift of production to a foreign source occurred.

In the request for reconsideration, the petitioner provided additional information about the customers of the subject firm.

The Department has carefully reviewed the request for reconsideration and the existing record and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 16th day of July 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–17133 Filed 7–25–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,626]

Visteon Systems LLC, Bedford Plant, a Subsidiary of Visteon Corporation, Including On-Site Leased Workers From Securitas and Ciber, Inc., Including Leased Workers From Bedford Logistics, Inc., Bedford, IN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for

Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 27, 2008, applicable to workers of Visteon Systems LLC, Bedford Plant, a subsidiary of Visteon Corporation, including on-site leased workers from Securitas, Bedford, Indiana. The notice was published in the **Federal Register** on March 11, 2008 (73 FR 13017). The certification was amended on June 20, 2008 to include leased workers from Bedford Logistics, Inc. The notice was published in the **Federal Register** on June 27, 2008 (73 FR 36574).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of automotive components (i.e., fuel delivery modules, wiper reservoirs and canister vent valves).

New information shows that leased workers from Ciber, Inc. were employed on-site at the Bedford, Indiana facility of Visteon Systems LLC, Bedford Plant.

Based on these findings, the Department is amending this certification to include leased workers from Ciber, Inc. working on-site at the Bedford, Indiana location of the subject firm.

The intent of the Department's certification is to include all workers employed at Visteon Systems LLC, Bedford Plant, a subsidiary of Visteon Corporation who were adversely affected by increased imports of Automotive components (i.e., fuel delivery modules, wiper reservoirs, and canister vent valves).

The amended notice applicable to TA–W–62,626 is hereby issued as follows:

All workers of Visteon Systems LLC, Bedford Plant, a subsidiary of Visteon Corporation, including on-site leased workers from Securitas and Ciber, Inc. and including leased workers from Bedford Logistics in support of Visteon Systems LLC, Bedford Plant, a subsidiary of Visteon Corporation, Bedford, Indiana, who became totally or partially separated from employment on or after January 21, 2008, through February 27, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 17th day of July 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–17132 Filed 7–25–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,965]

Eaton Aviation Corporation, Aviation and Aerospace Components, Including On-Site Leased Workers From Aorist Enterprises, Inc., Aurora, CO; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on May 1, 2007, applicable to workers of Eaton Aviation Corporation, Aviation and Aerospace Components, Aurora, Colorado. The notice was published in the **Federal Register** on May 17, 2007 (72 FR 27854).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of aviation and aerospace parts and components.

New information shows that leased workers from Aorist Enterprises, Inc. were employed on-site at the Aurora, Colorado location of Eaton Aviation Corporation, Aviation and Aerospace Components. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include leased workers from Aorist Enterprises, Inc. working on-site at the Aurora, Colorado location of the subject firm.

The intent of the Department's certification is to include all workers employed at Eaton Aviation Corporation, Aviation and Aerospace Components who were adversely affected by a shift in production of aviation and aerospace parts and components to Mexico.

The amended notice applicable to TA–W–60,965 is hereby issued as follows:

All workers producing aviation and aerospace parts and components at Eaton Aviation Corporation, Aurora, Colorado, or engaged in the support of such production including on-site leased workers of Aorist Enterprises, Inc. (TA–W–60,965), who became totally or partially separated from employment on or after February 13, 2006, through May 1, 2009, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 15th day of July 2008.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–17130 Filed 7–25–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,566]

WestPoint Home, Bath Products Division, Including Former On-Site Corporate Employees, Including On-Site Leased Workers from A–1 Employment, Inc., Valley, AL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on January 18, 2008, applicable to workers of WestPoint Home, Bath Products Division, including on-site leased workers from A–1 Employment, Inc., Valley, Alabama. The notice was published in the **Federal Register** on February 1, 2008 (73 FR 6212).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of bath towels.

New findings show that former corporate employees were employed on-site at the Valley, Alabama location of WestPoint Home, Bath Products Division. The corporate employees provided various activities supporting the production of bath towels that were produced at the Bath Products Division, Valley, Alabama location of the subject firm.

Based on these findings, the Department is amending the certification to include former corporate employees working on-site at the Bath Products Division of WestPoint Home, Valley, Alabama.

The intent of the Department's certification is to include all workers

employed at WestPoint Home, Bath Products Division, Valley, Alabama who were adversely affected by a shift in production of bath towels to Pakistan.

The amended notice applicable to TA–W–62,566 is hereby issued as follows:

All workers of WestPoint Home, Bath Products Division, including on-site former corporate employees, including on-site leased workers from A–1 Employment, Inc., Valley, Alabama, who became totally or partially separated from employment on or after December 10, 2006, through January 18, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington DC, this 16th day of July 2008.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–17131 Filed 7–25–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *July 7 through July 11, 2008*.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–63,247; AGC Flat Glass North America, Inc., A Subsidiary of Asahi Glass Company Limited, Flat Glass Division, Church Hill, TN: April 23, 2007.

TA–W–63,426; Pacific Continental Apparel, Inc., Rancho Dominguez, CA: May 21, 2008.

TA–W–63,442; Corinthian, Inc., Upholstery and Sewing Departments, Corinth, MS: May 28, 2007.

TA–W–63,594; Hanes Companies, Inc., Hanes Industries, Newton, NC: June 23, 2007.

TA–W–63,296; Ornamental Products, LLC, Leased Workers from Staffmasters, High Point, NC: May 1, 2007.

TA–W–63,415; Acklin Stamping Company, A Subsidiary of Ice Industries, Toledo,OH: May 19, 2007.

TA–W–63,446; Comau Plymouth Engineering, A Subsidiary of Comau Inc., Plymouth, MI: May 29, 2007.

TA–W–63,500; Lumberton Dyeing and Finishing, Lumberton, NC: June 6, 2007.

TA–W–63,453; Dell Products L.P., Topfer Manufacturing Center, Austin, TX: May 29, 2007.

TA–W–63,549; CEVA Logistics, Contract 10164, Miamisburg, OH: June 10, 2007.

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–63,351; Schaeffler Group USA Inc., Automotive Segment, Spartanburg, SC: May 8, 2007.

TA–W–63,430; Comau, Inc., Macomb Township, MI: May 22, 2007.

TA–W–63,456; Mahle Engine Components USA, Inc., Harvey Street Machining Plant, Muskegon, MI: May 29, 2007.

TA–W–63,513; CIMA Plastics II Corporation, Elberton, GA: June 2, 2007.

TA–W–63,545; T. W. Lamination LLC, A Subsidiary of Woodbridge Group, Del Rio, TX: June 11, 2007.

TA–W–63,556; Intel Corporation, Corporate Services Group, D2 Operations, Santa Clara, CA: June 16, 2007.

TA–W–63,564; Sensormatic Electronic Corporation, and Leased Workers of Kelly Services, San Antonio, PR: June 17, 2007.

TA–W–63,565; Four Season, Division of Standard Motor Products, Grapevine, TX: June 18, 2007.

TA–W–63,568; Jockey International, Inc., Leased Workers From Carolina Placement, Mocksville, NC: June 18, 2007.

TA–W–63,572; Narragansett Jewelry Company, Inc., d/b/a C & J Jewelry Co. and Narragansett Creations, LTD, Providence, RI: April 24, 2008.

TA–W–63,593; Minco Manufacturing, LLC, Fuser Roller Division, Colorado Springs, CO: June 20, 2007.

TA–W–63,608; Lennox Manufacturing, Inc., Marshalltown, IA: June 26, 2007.

TA–W–63,615; Holophane—Division of Acuity Brands Lighting, Newark, OH: June 26, 2007.

TA–W–63,588; Hermle Black Forest Clocks, Amherst, VA: June 23, 2007.

The following certifications have been issued. The requirements of section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of section 246 has not been met. The firm does not have a significant number of workers 50 years of age or older.

None.

The Department has determined that criterion (2) of section 246 has not been met. Workers at the firm possess skills that are easily transferable.

None.

The Department has determined that criterion (3) of section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–63,523; Bee Chemical, DBA NB Coatings, Inc., Paint on Plastic Division, Lansing, OH.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–62,840; Superior Studs, LLC, A Subsidiary of Swanson Group Manufacturing, LLC, Glide, OR.

TA–W–62,948; Superior Studs, LLC, A Subsidiary of Swanson Group Manufacturing, LLC, Roseburg, OR.

TA–W–63,129; Warm Springs Forest Products Industries, Warm Springs, ID.

TA–W–63,168; Akrion SCP Services, Boise, NY.

TA–W–63,304; Kaspar and ESH, Inc., New York, MI.

TA–W–63,362; Mavrick Metal Stamping, Inc., Mancelona, NC.

TA–W–63,428; Markay Designs, Inc., Sophia, CA.

TA–W–63,455; HSBC Card Services, Salinas, TX.

TA–W–63,515; Aberdeen Fabrics, Inc., Red Springs, IL.

TA–W–63,536; Brazing Concepts South, Fairfield, MI.

TA–W–63,511; Ellen Tracy, A Subsidiary of Liz Claiborne, Inc., New York, NC.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–63,502; Onsite International, Inc., El Paso, NY.

TA–W–63,546; BBDO Detroit, Accounting Department of Operations Group, Troy, MO.

TA–W–63,599; ExamOne, Attending Physician Statements Dept., A Quest Diagnostics Subsidiary, Lee's Summit, MO.

The investigation revealed that criteria of section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the period of *July 7 through June 11, 2008*. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 18, 2008.

Erin Fitzgerald,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E8–17129 Filed 7–25–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 7, 2008.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 7, 2008.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 17th day of July 2008.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 7/7/08 and 7/11/08]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
63646	Sorin Group USA, Inc (Comp)	Arvada, CO	07/07/08	07/02/08
63647	Entorian Technologies (State)	Irvine, CA	07/07/08	07/02/08
63648	Hanesbrands, Inc. (Wkrs)	Winston-Salem, NC	07/08/08	07/01/08
63649	CFM US Corporation (Comp)	Huntington, IN	07/08/08	07/07/08
63650	Orcon Corporation (State)	Union City, CA	07/08/08	06/27/08
63651	Day-Spring Cards, Inc. (State)	Siloam Springs, AR	07/08/08	07/07/08
63652	Affinia Group/Brake Parts, Inc. (Comp)	Dallas, TX	07/08/08	06/16/08
63653	J P Morgan Chase Bank NA (Wkrs)	Lexington, KY	07/08/08	07/05/08
63654	P.I. INC. (Comp)	Athens, TN	07/08/08	06/27/08
63655	Bonnie Sports, Inc. (Wkrs)	New York, NY	07/08/08	06/30/08
63656	Revlon Products Corporation (Wkrs)	Irvington, NJ	07/08/08	06/15/08
63657	Delta Apparel, Inc. (Comp)	Duluth, GA	07/08/08	07/04/08
63658	Applied Engineering (State)	San Jose, CA	07/08/08	06/30/08
63659	Unilever Food Solutions (Comp)	Franklin Park, IL	07/09/08	07/09/08
63660	Philips Advance Transformer (Comp)	Monroe, WI	07/09/08	07/07/08
63661	Samuel Aaron International (Wkrs)	Queens, NY	07/09/08	06/30/08
63662	Anderson Desk, Inc. (Comp)	Industry, CA	07/10/08	07/09/08
63663	Chrysler Warren Stamping (UAW)	Warren, MI	07/10/08	07/09/08
63664	Wrights Factory Subsidiary (Comp)	Fiskdale, MA	07/10/08	07/09/08
63665	American Axle and Manufacturing, Inc. Tonawanda Forge (Wkrs).	Tonawanda, NY	07/10/08	06/23/08
63666	Kelly Hosiery, Inc. (Comp)	Fort Payne, AL	07/10/08	07/09/08
63667	Alcatel-Lucent Technologies (Wkrs)	Hunt Valley, MD	07/10/08	07/09/08
63668	R. D. Reeves (AFLCIO)	Rainer, OR	07/10/08	07/09/08
63669	Weyerhaeuser Foster Plant (AFLCIO)	Sweet Home, OR	07/10/08	07/08/08
63670	American of Martinsville (Comp)	Martinsville, VA	07/10/08	07/09/08
63671	Helsel Lumber Mill, Inc. (Comp)	Duncansville, PA	07/10/08	07/08/08
63672	ECD, Inc. (Comp)	Hillside, NJ	07/10/08	07/09/08
63673	Acme Electric, Lumberton Operations (Comp)	Lumberton, NC	07/11/08	07/11/08
63674	Lane Furniture (Wkrs)	Tupelo, MS	07/11/08	07/07/08
63675	Kerry Group, Inc. (Wkrs)	Germantown, WI	07/11/08	07/09/08
63676	Stark Candy Co. (Wkrs)	Pawaukee, WI	07/11/08	07/10/08
63677	TL Bayne Co., Inc. (Wkrs)	Harlan, KY	07/11/08	07/10/08
63678	Volex, Inc. (Comp)	Hickory, NC	07/11/08	07/10/08

[FR Doc. E8–17128 Filed 7–25–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,623]

Best Textiles International Ltd., Formerly Known as Best: Artex LLC, Highland, IL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on June 30, 2008, in response to a worker petition filed on behalf of workers of Best Textiles International Ltd., Highland, Illinois.

Workers of Best: Artex LLC, Highland, Illinois, were certified eligible to apply for trade adjustment assistance under petition number TA–W–61,393, expiring on May 24, 2009. This certification was amended on July 9, 2008, to include workers whose wages were reported under the corporate name of Best Textiles International Ltd., Highland, Illinois, the subject of this investigation.

Since the petitioning group of workers is covered by an active certification, (TA–W–61,393, amended), further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 16th day of July 2008.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–17127 Filed 7–25–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,352]

Carolina Furniture Manufacturers Inc., Ramseur, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on May 9, 2008 in response to a petition filed by a company official on behalf of workers of Carolina Furniture Manufacturers Inc., Ramseur, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 17th day of July 2008.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–17134 Filed 7–25–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,506]

SAPA Fabricated Products, Magnolia, AR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on June 9, 2008, in response to a petition filed by the Arkansas State Workforce Office on behalf of the workers at SAPA Fabricated Products, Magnolia, Arkansas.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 18th day of July 2008.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–17135 Filed 7–25–08; 8:45 am]

BILLING CODE 4510–FN–P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings of the Board of Directors and the Board's Five Committees; Notice

TIMES AND DATES: The Legal Services Corporation Board of Directors and five of the Board's Committees will meet on August 1–2, 2008 in the order set forth in the following schedule, with each meeting commencing promptly upon adjournment of the immediately preceding meeting.

PUBLIC OBSERVATION BY TELEPHONE: Members of the public who wish to listen to the open portions of the meetings live may do so by following the telephone call-in directions given below. You are asked to keep your telephone muted to eliminate background noises. Comments from the public may from time to time be solicited by the presiding Chairman.

Call-In Directions for Open Sessions

Friday, August 1, 2008

- Call toll-free number 1–888–603–7025.
- When prompted, enter the following numeric pass code: 24700.
- When connected to the call, please "*MUTE*" your telephone immediately.

Saturday, August 2, 2008

- Call toll-free number 1–888–928–9122.
- When prompted, enter the following numeric pass code: 24700.
- When connected to the call, please "*MUTE*" your telephone immediately.

Meeting Schedule

Friday, August 1, 2008. Time: 1:15 p.m.[1]

1. Provision for the Delivery of Legal Services Committee (Provisions Committee).
2. Operations & Regulations Committee.
3. Audit Committee.

Saturday, August 2, 2008. Time: 8:30 a.m.

4. Audit Committee (Continued).
5. Finance Committee.
6. Annual Performance Review Committee.
7. Board of Directors.

LOCATION: The Sheraton Suites Hotel, 422 Delaware Avenue, Wilmington, Delaware.

STATUS OF MEETINGS: Open, except as noted below.

August 2, 2008 Board of Directors Meeting—Open, except that a portion of the meeting of the *Board of Directors* may be closed to the public pursuant to a vote of the *Board of Directors* to consider and perhaps act on the General Counsel's report on potential and pending litigation involving LSC. A *verbatim* written transcript of the session will be made. The transcript of any portions of the closed session falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(10), and the corresponding provisions of the Legal Services Corporation's implementing regulation, 45 CFR 1622.5(h), will not be available for public inspection.

A portion of the meeting of the *Performance Review Committee* may also be closed to the public pursuant to a vote of the *Board of Directors* in order to consider and possibly act on the recommendation of the *Performance Review Committee* regarding renewal/extension and revision of Helaine M. Barnett's contract of employment as President of the Corporation. The transcript of any portions of the closed session falling within the relevant provisions of the Government in the

[1] Please note that all times in this notice are *Eastern Daylight Time.*

Sunshine Act, 5 U.S.C. 552b(c)(2) & (6), and the corresponding provisions of the Legal Services Corporation's implementing regulation, 45 CFR 1622.5(a) & (e), will not be available for public inspection.

The transcript of any portions of the closed sessions not falling within the cited provisions will be available for public inspection. A copy of the General Counsel's Certifications that the closings are authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Friday, August 1, 2008

Provision for the Delivery of Legal Services Committee

Agenda

Open Session

1. Approval of agenda.
2. Approval of the Committee's meeting minutes of April 25, 2008.
3. Chairman's Report on LSC Executive Director Conference Session on ''The Role of the Executive Director in Promoting Quality''.
4. Staff Update on LSC Technology Criteria for Legal Aid Offices.
5. Staff Update on activities implementing the LSC *Private Attorney Involvement Action Plan—Help Close the Justice Gap: Unleash the Power of Pro Bono.*
6. Staff Update on Pilot Loan Repayment Assistance Program—Second Year Evaluation and Implementation of 2008 Pilot LRAP Appropriation.
7. Staff Update on Native American Delivery and Funding.
8. Public comment.
9. Consider and act on other business.
10. Consider and act on adjournment of meeting.

Operations & Regulations Committee

Agenda

Open Session

1. Approval of agenda.
2. Approval of the minutes of the Committee's April 26, 2008 meeting.
3. Consider and act on ''alternative sanctions'' rulemaking:
   - Staff report on regulatory workshop.
   - OIG comment.
   - Public comment.
4. Consider and act on 2009 Grant Assurances:
   - Staff report.
   - OIG comment.
   - Public comment.
5. Consider and act on recommendation(s) to make to the Board on a revised charter for the Operations & Regulations Committee.
6. Consider and act on Draft NPRM implementing OPEN Government Act changes to FOIA:
   - Staff report.
   - OIG comment.
   - Public comment.
7. Consider and act on rulemaking petition regarding financial eligibility requirements in disaster areas.
8. Consider and act on other business.
9. Other public comment.
10. Consider and act on adjournment of meeting.

Audit Committee

Agenda

Open Session

1. Approval of agenda.
2. Approval of minutes of the Committee's meeting of April 26, 2008.
3. Report of the Committee Chairman.
4. Consider and act on new Protocol for the acceptance and use of private contributions to LSC.
5. Discussion of LSC fundraising efforts and other alternatives.
6. Report of the Inspector General on LSC's auditor selection process.
7. Report of the Inspector General on how the work of the Office of Inspector General will assist and complement the work of the Audit Committee.
8. Report of Management on Risk Assessment Plan.
9. Consider and act on development of a workplan for the Committee.
10. Public comment.
11. Consider and act on other business.
12. Consider and act on adjournment of meeting.

Saturday, August 2, 2008

Audit Committee

Agenda

Open Session

1. Approval of agenda.
2. Approval of minutes of the Committee's meeting of April 26, 2008.
3. Report of the Committee Chairman.
4. Consider and act on new Protocol for the acceptance and use of private contributions to LSC.
5. Discussion of LSC fundraising efforts and other alternatives.
6. Report of the Inspector General on LSC's auditor selection process.
7. Report of the Inspector General on how the work of the Office of Inspector General will assist and complement the work of the Audit Committee.
8. Report of Management on Risk Assessment Plan.
9. Consider and act on development of a workplan for the Committee.
10. Public comment.
11. Consider and act on other business.
12. Consider and act on adjournment of meeting.

Finance Committee

Agenda

Open Session

1. Approval of agenda.
2. Approval of the minutes of the Committee's open session meeting of April 26, 2008.
3. Approval of the minutes of the Committee's closed session meeting of April 26, 2008.
4. Consider and act on proposed protocol for the acceptance and use of private contributions to LSC:
   - Presentation by Charles Jeffress.
   - Comments by David Richardson.
5. Consider and act on FY 2008 Revised Consolidated Operating Budget, including internal budgetary adjustments and budget reallocations:
   - Presentation by David Richardson.
   - Comments by Charles Jeffress.
6. Presentation on LSC's Financial Reports for the Third Quarter Ending June 30, 2008:
   - Presentation by David Richardson.
   - Comments by Charles Jeffress.
7. Report on the status of the FY 2009 Appropriations process:
   - Report by John Constance.
8. Consider and act on adoption of FY 2009 Temporary Operating Authority effective October 1, 2008.
9. Discussion regarding planning for FY 2010 budget.
10. Discussion of new IRS Form 990.
11. Consider and act on other business.
12. Public comment.
13. Consider and act on adjournment of meeting.

Performance Review Committee

Agenda

Open Session

1. Approval of agenda.
2. Approval of the minutes of the Committee's meeting of April 25, 2008.
3. Consider and act on whether to recommend to the Board that the *Performance Review Committee* be reconstituted as the Board's new *Governance & Performance Review Committee*.
4. Consider and act on a charter to recommend to the Board for the *Performance Review Committee* or the *Governance & Performance Review Committee*, whichever the Committee recommends to the Board.
5. Consider and act on recommendations made to the Board in the Government Accountability Office report on LSC governance.

a. Develop a plan for providing a regular training program for board members that includes providing updates or changes in LSC's operating environment and relevant governance and accountability practices.

b. Implement a periodic self-assessment of the Board's, the committees', and each individual member's performance for purposes of evaluating whether improvements can be made to the board's structure and processes.

c. Establish and implement a comprehensive orientation program for new board members to include key topics such as fiduciary duties, IRS requirements, and interpretation of the financial statements.

6. Consider and act on procedures and timetable for annual performance review of the President.

7. Discuss with the Inspector General the process for assessment of his performance and other related issues.

8. Consider and act on other business.

9. Other public comment.

Closed Session

10. Consider and act on possible recommendation to the Board to renew/extend and revise Helaine M. Barnett's contract of employment as President of the Corporation.

11. Consider and act on motion to adjourn the meeting.

Board of Directors

Agenda

Open Session

1. Approval of agenda.

2. Approval of minutes of the *Board's* Open Session meeting of April 26, 2008.

3. Approval of minutes of the *Board's* Open Session telephonic meeting of May 27, 2008.

4. *Chairman's* Report.

5. *Members'* Reports.

6. *President's* Report.

7. *Inspector General's* Report.

8. Consider and act on the report of the *Provision for the Delivery of Legal Services Committee.*

9. Consider and act on the report of the *Finance Committee.*

10. Consider and act on the report of the *Operations and Regulations Committee.*

a. Consider and act on adoption of charter for the Board's *Operations and Regulations Committee.*

11. Consider and act on the report of the *Audit Committee.*

12. Consider and act on the report of the *Performance Review Committee.*

a. Consider and act on whether to reconstitute the Board's *Performance Review Committee* as a new *Committee on Governance and Performance Review.*

b. Consider and act on adoption of a charter for the *Performance Review* or, if the committee is reconstituted as per agenda item #12a, for the *Governance and Performance Review Committee.*

13. Consider and act on the report of the Board's *Ad Hoc Committee.*

14. Consider and act on proposed Protocol for Board member access to Corporation records.

15. Consider and act on review and update of the Corporation's five-year strategic plan.

16. Consider and act on a resolution to recognize *pro bono* assistance of Lowenstein Sandler, PC.

17. Public comment.

18. Consider and act on other business.

19. Consider and act on whether to authorize an executive session of the *Board* to address items listed below under *Closed Session.*

Closed Session

20. Approval of minutes of the *Board's* Executive Session of April 26, 2008.

21. Consider and act on General Counsel's report on potential and pending litigation involving LSC.

22. Consider and act on recommendation of the Performance Review Committee regarding possible renewal/extension and revision of Helaine M. Barnett's contract of employment as President of the Corporation.

23. Consider and act on motion to adjourn meeting.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Manager of Board Operations, at (202) 295–1500.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia D. Batie, at (202) 295–1500.

Dated: July 24, 2008.

Victor M. Fortuno,

Vice President & General Counsel.

[FR Doc. 08–1470 Filed 7–24–08; 3:38 pm]

BILLING CODE 7050–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Renewal of Advisory Committee on Presidential Libraries

This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.) and advises of the renewal of the National Archives and Records Administration's (NARA) Advisory Committee on Presidential Libraries. In accordance with Office of Management and Budget (OMB) Circular A–135, OMB approved the inclusion of the Advisory Committee on Presidential Libraries in NARA's ceiling of discretionary advisory committees.

NARA has determined that the renewal of the Advisory Committee is in the public interest due to the expertise and valuable advice the Committee members provide on issues affecting the functioning of existing Presidential libraries and library programs and the development of future Presidential libraries. NARA will use the Committee's recommendations in its implementation of strategies for the efficient operation of the Presidential libraries. NARA's Committee Management Officer is Mary Ann Hadyka. She can be reached at 301–837–1782.

Dated: July 21, 2008.

Allen Weinstein,

Archivist of the United States.

[FR Doc. E8–17316 Filed 7–25–08; 8:45 am]

BILLING CODE 7515–01–P

OFFICE OF NATIONAL DRUG CONTROL POLICY

Appointment of Members of Senior Executive Services Performance Review Board

AGENCY: Office of National Drug Control Policy [ONDCP].

ACTION: Notice of appointments.

SUMMARY: The following persons have been appointed to the ONDCP Senior Executive Service Performance Review Board: Mr. Thomas Riley, Ms. Michele Marx, Mr. Robert Denniston, and Mr. Patrick Ward.

FOR FURTHER INFORMATION CONTACT: Please direct any questions to Linda V. Priebe, Assistant General Counsel (202) 395–6622, Office of National Drug Control Policy, Executive Office of the President, Washington, DC 20503.

Linda V. Priebe,

Assistant General Counsel.

[FR Doc. E8–17200 Filed 7–25–08; 8:45 am]

BILLING CODE 3180–02–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain*. This is the second notice for public comment; the first was published in the **Federal Register** at 73 FR 24615, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, *Attention:* Desk Officer for National Science Foundation, 725—17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to *splimpto@nsf.gov*. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission may be obtained by calling 703–292–7556.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: 2008 Survey of Graduate Students and Postdoctorates in Science and Engineering.

OMB Approval Number: 3145–0062.

Type of Request: Intent to seek approval to extend an information collection for three years.

1. Abstract

The Survey of Graduate Students and Postdoctorates in Science and Engineering (GSS) has been conducted since 1966. The GSS is a census of all eligible academic institutions and all departments in science and engineering and health (SEH) programs in the United States. The GSS is the only national survey that collects information on the characteristics of graduate enrollment for specific science, engineering, and health disciplines at the department level. It collects information on race/ethnicity, citizenship, gender, sources of support, mechanisms of support, and enrollment status for graduate students; and gender, citizenship and sources of support for postdoctorates. It also collects counts by gender of other nonfaculty research staff with doctorates.

The National Science Foundation Act of 1950, as subsequently amended, includes a statutory charge to "* * * provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources, and to provide a source of information for policy formulation by other agencies of the Federal Government." The GSS is designed to comply with these mandates by providing information on the characteristics of academic graduate enrollment and postdoctoral components in science, engineering and health fields. The Foundation uses this information to prepare congressionally mandated reports such as *Women, Minorities and Persons with Disabilities in Science and Engineering and Science and Engineering Indicators*.

Survey results are made available in a variety of formats. A four-page InfoBrief and selected summary tables are published. All tables and reports are made available in various electronic formats on the Web (*http://www.nsf/gov/statistics/*). The results are also in the Web-based Computer-Aided Science Policy Analysis and Research (WebCASPAR) database system. The URL for WebCASPAR is *http://caspar.nsf.gov/webcaspar*. A public release file is also made available on the World Wide Web.

RTI International (RTI) will conduct the study for NSF. Data collection will begin in October 2008 primarily by Web survey (with paper worksheets available upon request). All information will be used for statistical purposes only. Participation in the survey is voluntary.

2. Expected Respondents

In 2008, the number of departments is expected to grow by 5 percent resulting in a total number of 13,253 departments. In addition, the 2008 GSS will be conducting pilot studies with 80 potentially eligible institutions and with 40 institutions where undercoverage (not all eligible departments are being listed) may be occurring. Finally, in 2008–2010 the GSS will be including the Federally Funded Research and Development Centers (FFRDCs) as part of the GSS in order to gather information about the number and characteristics of postdoctoral appointments in these centers.

3. Burden on the Public

The amount of time to complete the GSS varies and depends to a large degree on the extent to which the school's records are centrally stored and computerized. On average, it takes 2.5 hours to complete the GSS. Based on estimates provided by the respondents to the 2007 GSS, the total estimated burden for the 2008 GSS will be 36,721 hours. This estimate includes the 33,133 annual burden hours for the 2008 GSS; 2,800 annual burden hours for the pilot study of the newly eligible institutions; 600 burden hours for the undercoverage pilot study; and 188 burden hours for FFRDC study. The total estimated burden for the three years of this clearance (2008–2010) will be 127,423 hours, including 360 hours for field testing of data collection instruments prior to implementation.

Dated: July 23, 2008.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. E8–17182 Filed 7–25–08; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Draft Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability of Draft Generic Environmental Impact Statement for Uranium milling facilities.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC), with the cooperation of the Wyoming Department of Environmental Quality, Land Quality Division, is issuing for public comment a Draft Generic Environmental Impact Statement (Draft GEIS) that identifies and evaluates on a programmatic basis, the potential environmental impacts from the construction, operation, aquifer restoration, and decommissioning at *in-situ* leach (ISL) uranium milling facilities located in particular regions of the western United States. The Draft GEIS addresses environmental issues common to ISL milling facilities to aid in making more efficient environmental reviews of individual site-specific ISL license applications.

The NRC anticipates that nearly 75 percent of new license applications for uranium milling received by the agency within the next several years will propose use of the ISL process. By addressing common issues associated with environmental reviews of ISL facilities, the NRC will use the GEIS to provide a starting point in the staff's National Environmental Policy Act (NEPA) analyses for site-specific license applications for new ISL facilities. Additionally, the NRC staff plans to use the GEIS, along with applicable previous site-specific environmental review documents, in its NEPA analysis for the restart or expansions of existing ISL facilities. In its review of individual ISL license applications, the NRC would evaluate the site-specific data to determine whether relevant sections of the GEIS could be incorporated by reference into the site-specific environmental review. Additionally, the NRC would determine whether aspects of the site and/or the applicant's proposed activities are consistent with those evaluated in the GEIS or are such that additional analysis in specific topic areas would be required. As such, the subsequent site-specific NEPA reviews (i.e., either environmental assessments or environmental impact statements) will tier from the analyses of common issues evaluated in the GEIS and address the unique attributes of individual sites.

To encourage broad participation in the preparation of the GEIS, the NRC staff has scheduled a series of public meetings in potentially affected regions of the four states (Wyoming, South Dakota, Nebraska, and New Mexico) where uranium milling companies have indicated to the NRC their desire to pursue uranium recovery using the ISL process. The purpose of these meetings will be for the NRC staff to present an overview of the Draft GEIS and to accept oral and written public comments on the Draft GEIS from interested members of the public. The meeting dates, times, and locations are listed below:

Meeting Date: August 25, 2008, 7 p.m. to 9:30 p.m.

Meeting Location: Holiday Inn Hotel & Convention Center, 305 N. 27th Street, Spearfish, SD 57783, Phone (605) 642–4683.

Meeting Date: August 27, 2008, 7 p.m. to 9:30 p.m.

Meeting Location: Chadron State College, Student Center Ballroom, 1000 Main Street, Chadron, NE., 69337, Phone (308) 432–6380.

Meeting Date: August 29, 2008, 7 p.m. to 9:30 p.m.

Meeting Location: Weston Senior Center, 627 Pine Street, Newcastle, WY 82701, Phone (307) 746–4903.

Meeting Date: September 8, 2008, 7 p.m. to 9:30 p.m.

Meeting Location: Best Western Inn & Suites, 3009 West Highway 66, Gallup, NM, Phone (505) 722–2221.

Meeting Date: September 9, 2008, 7 p.m. to 9:30 p.m.

Meeting Location: Best Western Inn & Suites, 1501 East Santa Fe Ave., Grants, NM, 87020, Phone (505) 287–7901.

Meeting Date: September 11, 2008, 7 p.m. to 9:30 p.m.

Meeting Location: Hilton Albuquerque, 1901 University Boulevard NE., Albuquerque, NM, Phone (505) 884–2500.

Meeting Date: September 23, 2008, 7 p.m. to 9:30 p.m.

Meeting Location: Best Western Ramkota Hotel, 800 N. Poplar, Casper, WY, Phone (307) 266–6000.

Meeting Date: September 25, 2008, 7 p.m. to 9:30 p.m.

Meeting Location: Best Western Tower West Lodge, 109 North U.S. Highway 14 &16, Gillette, WY, 82716, Phone (307) 686–2210.

For each meeting, members of the NRC staff will be available for informal discussions with members of the public from 6 p.m. to 7 p.m. The formal meeting and associated NRC presentation will begin at 7 p.m. For planning purposes, those who wish to present oral comments at a particular meeting are encouraged to pre-register no later than one week (7 days) prior to the meeting by contacting either Tarsha Moon of the NRC at 1–800–368–5642, extension 7843 or Antoinette Walker-Smith of the NRC at 1–800–368–5642, Extension 6390. Interested persons also may register to speak at the meetings. Depending on the number of speakers for a meeting, each speaker may be limited in the amount of time allocated for their comments so that all speakers will have an opportunity to offer comments.

The NRC will issue a Final GEIS after considering both oral and written public comments on the Draft GEIS.

DATES: The public comment period on the Draft GEIS begins with publication of this notice and continues until October 7, 2008. Written comments should be submitted as described in the **ADDRESSES** section of this notice. The NRC will consider comments received or postmarked after that date to the extent practical.

ADDRESSES: Members of the public are invited and encouraged to submit comments on the Draft GEIS to the Chief, Rulemaking, Directives, and Editing Branch, Mailstop: T6–D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The NRC encourages comments submitted electronically to be sent to *NRCREP.Resource@nrc.gov*. Please include ''Uranium Recovery GEIS'' in the subject line when submitting written comments.

FOR FURTHER INFORMATION CONTACT: For general information on the NRC's NEPA process, or the environmental review process related to the Draft GEIS, please contact James Park, Project Manager, Division of Waste Management and Environmental Protection (DWMEP), Mail Stop T–8F5, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–001, by phone at 1 (800) 368–5642, extension 6935. For general or technical information associated with the safety and licensing of uranium milling facilities, please contact William Von Till, Branch Chief, Uranium Recovery Branch, DWMEP, Mail Stop T–8F5, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by phone at 1 (800) 368–5642, extension 0598.

The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of the NRC's public documents. The Draft GEIS and its appendices may be accessed through the NRC's Public Electronic Reading Room on the internet at: *http://www.nrc.gov/reading-rm/adams.html*, under the accession numbers ML082030184 and ML082000997 for Volumes 1 and 2, respectively, of the Draft GEIS. If you either do not have access to ADAMS or if there is a problem accessing documents located in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1 (800) 397–4209, 1 (301) 415–4737 or by email to *PDR.Resource@nrc.gov*.

Information and documents associated with the Draft GEIS are also

available for public review through the NRC Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* and at the NRC's Web site for the GEIS, *http://www.nrc.gov/materials/fuel-cycle-fac/licensing/geis.html*. Both information and documents associated with the Draft GEIS also are available for inspection at the Commission's Public Document Room, U.S. NRC's Headquarters Building, 11555 Rockville Pike (first floor), Rockville, Maryland. For those without access to the Internet, paper copies of any electronic documents may be obtained for a fee by contacting the NRC's Public Document Room at 1–800–397–4209. The draft GEIS and related documents may also be found at the following public libraries:

Albuquerque Main Library, 501 Copper NW., Albuquerque, New Mexico 87102, 505–768–5141.

Mother Whiteside Memorial Library, 525 West High Street, Grants, New Mexico 87020, 505–287–4793.

Octavia Fellin Public Library, 115 W Hill Avenue, Gallup, New Mexico 87301, 505–863–1291.

Natrona County Public Library, 307 East Second Street, Casper, Wyoming 82601, 307–332–5194.

Carbon County Public Library, 215 W Buffalo Street, Rawlins, Wyoming 82301, 307–328–2618.

Campbell County Public Library, 2101 South 4J Road, Gillette, Wyoming 82718, 307–687–0009.

Weston County Library, 23 West Main Street, Newcastle, Wyoming 82701, 307–746–2206.

Chadron Public Library, 507 Bordeaux Street, Chadron, Nebraska 69337, 308–432–0531.

Rapid City Public Library, 610 Quincy Street, Rapid City, South Dakota 57701, 605–394–4171.

SUPPLEMENTARY INFORMATION: In cooperation with the Wyoming Department of Environmental Quality (Land Quality Division), the NRC staff and its contractor, the Center for Nuclear Waste Regulatory Analyses, prepared this draft GEIS to facilitate the NRC staff's environmental review of new ISL uranium milling license applications. The NRC staff will use the GEIS to ensure a consistent approach in conducting the reviews and to focus the staff's efforts on unique site characteristics that will be addressed in the site-specific environmental evaluations as part of ISL application reviews. The Draft GEIS was prepared in compliance with the National Environmental Policy Act (NEPA) and the NRC's regulations for implementing NEPA (10 CFR Part 51).

The NRC staff published a Notice of Intent to prepare the GEIS, in the **Federal Register** on July 24, 2007 (72 FR 40344). The public scoping comment period for the GEIS closed on November 30, 2007. The NRC staff has prepared a summary report of the comments received, and this report is available through the NRC Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html*, under the accession number ML081560476.

The NRC is expecting numerous license applications for in-situ leach (ISL) uranium milling facilities in the coming 2–3 years. This Draft GEIS is intended to address the common issues associated with environmental reviews of such milling facilities located in specific regions of the western United States. Due to environmental issues common to ISL milling facilities, the NRC staff is addressing these common issues in a programmatic manner to aid in a more efficient environmental review for each individual license application, if and when these applications are submitted.

ISL milling facilities recover uranium from low grade ores that may not be economically recoverable by other methods. In this process, a leaching agent, such as oxygen with sodium bicarbonate, is added to native ground water for injection through wells into the subsurface ore body to dissolve the uranium. The leach solution, containing the dissolved uranium, is pumped back to the surface and sent to the processing plant, where ion exchange is used to separate the uranium from the solution. The underground leaching of the uranium also frees other metals and minerals from the host rock. Operators of ISL facilities are required to restore the ground water affected by the leaching operations. The milling process concentrates the recovered uranium into the product known as ''yellowcake'' (U_3O_8). This yellowcake is then shipped to uranium conversion facilities for further processing in the overall uranium fuel cycle.

In the Draft GEIS, the proposed action is the construction, operation, aquifer restoration, and decommissioning at an ISL uranium milling facility in each of four identified regions in the western U.S. Implementation of the proposed action would require the issuance of an NRC license under the provisions of 10 CFR Part 40. The GEIS also addresses the no-action alternative. Under this alternative, the NRC would not approve new ISL license applications in the four regions and so new ISL uranium milling facilities would not constructed nor operated in those regions. The no-action alternative serves as a baseline for comparison of the potential environmental impacts.

Conventional mining/milling and the heap leach process are two other methods of uranium recovery. However, inasmuch as the suitability and practicality of using these alternative milling methodologies depends upon site-specific conditions, a generic discussion of these methodologies is not appropriate. Accordingly, the Draft GEIS does not contain a detailed analysis of alternative milling methodologies to the ISL process. A detailed analysis of such alternative milling methodologies that can be applied at a specific site will be addressed in the NRC's site-specific environmental review for individual ISL license applications.

The Draft GEIS is structured in the following manner. The NRC staff began by identifying four uranium milling regions in the western U.S. to use as a framework for discussions in the document. Two regions are found in Wyoming, one in New Mexico, and a final region encompasses portions of Nebraska, South Dakota, and Wyoming.

These regions were identified based on several considerations, including:

- Past and existing uranium milling sites are located within States where the NRC has regulatory authority over uranium recovery;
- Potential new sites are identified based on the NRC's understanding of where the uranium recovery industry has plans to develop uranium deposits using ISL technology; and
- Locations of historical uranium deposits within portions of Wyoming, Nebraska, South Dakota, and New Mexico.

Additionally, in defining these regions, the NRC considered aspects of the affected environment (e.g., regional ground water characteristics, regional demographics) such that potential future ISL milling sites within each region would more likely share those aspects for the purpose of evaluating potential environmental impacts. Therefore, the NRC considers that these regions reasonably bound the geographic scope of the Draft GEIS for describing the affected environment and for assessing potential environmental impacts within each region.

Next, the Draft GEIS provides a description of the ISL process and addresses the construction, operation, aquifer restoration, and decommissioning at an ISL facility. Financial assurance is also discussed, whereby the ISL licensee or applicant establishes a bond or other financial mechanism prior to operations to ensure that sufficient funds are available to

complete aquifer restoration, decommissioning, and reclamation activities.

Then, the Draft GEIS describes the affected environment in each uranium milling region, using the environmental resource areas and topics identified through public scoping comments on the GEIS and from NRC guidance to its staff found in NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated With NMSS Programs,'' issued by the NRC in 2003.

Finally, the Draft GEIS provides an evaluation of the potential environmental impacts of constructing, operating, aquifer restoration, and decommissioning at an ISL facility in each of the four uranium milling regions. In essence, this involves placing an ISL facility with the characteristics described previously within each of the four regional areas and describing and evaluating the potential impacts in each region separately. Impacts are examined for the following resource areas:

- Land use.
- Transportation.
- Geology and soils.
- Water resources.
- Ecology.
- Air quality.
- Noise.
- Historical and cultural resource.
- Visual and scenic resources.
- Socioeconomic.
- Public and occupational health.

Following the discussion of potential environmental impacts, the Draft GEIS addresses cumulative impacts; environmental justice; practices, measures, and actions to mitigate potential impacts; environmental monitoring activities; and the consultation process with federal and tribal entities.

As stated previously, the NRC is accepting comments on the Draft GEIS. Following the end of the public comment period, the NRC staff will publish a Final GEIS that addresses, as appropriate, the public comments on the Draft GEIS. The NRC expects to publish the Final GEIS by June 2009.

Dated at Rockville, Maryland, this 21st day of July, 2008.

For the U.S. Nuclear Regulatory Commission.

Patrice M. Bubar,

Deputy Director, Environmental Protection and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E8–17246 Filed 7–25–08; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Form S–4; OMB Control No. 3235–0324; SEC File No. 270–287.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ('Commission') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Form S–4 (17 CFR 239.25) is the registration form used to register securities issued in business combination transactions under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). The information collected is intended to ensure the adequacy of information available to investors in connection with business combination transactions. Form S–4 is a public document and all information provided is mandatory. Form S–4 takes approximately 4,064 hours per response to prepare and is filed by 619 registrants annually. We estimate that 25% of the 4,064 hours per response (1,016 hours) is prepared by the registrant for an annual reporting burden of 628,904 hours (1,016 hours per response × 619 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to *Alexander_T._Hunt@omb.eop.gov*; and (ii) Lewis W. Walker, Acting Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 22, 2008.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17214 Filed 7–25–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58205; File No. 4–443]

Joint Industry Plan; Order Granting Permanent Approval to Amendment No. 1 to the Plan for the Purpose of Developing and Implementing Procedures Designed To Facilitate the Listing and Trading of Standardized Options

July 22, 2008.

I. Introduction

On May 15, 2008, May 15, 2008, May 13, 2008, May 6, 2008, May 13, 2008, May 7, 2008, May 13, 2008, and May 8, 2008, the American Stock Exchange LLC (''Amex''), the Boston Stock Exchange, Inc. (''BSE''), Chicago Board Options Exchange, Incorporated (''CBOE''), the International Securities Exchange, LLC (''ISE''), The NASDAQ Stock Market LLC (''Nasdaq''), NYSE Arca Inc. (''NYSE Arca''), the Philadelphia Stock Exchange, Inc. (''Phlx''), and the Options Clearing Corporation (''OCC'') respectively, filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 11A of the Securities Exchange Act [1] of 1934 (''Act'') and Rule 608 thereunder,[2] Amendment No. 1 to the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options (''the Options Listing Procedures Plan'' or ''OLPP'').[3] Amendment No. 1 would provide a uniform time frame for the introduction of new Long-term Equity AnticiPation (''LEAP'' or ''LEAPS'') series on equity option classes, options on Exchange Traded Funds (''ETFs''), or options on Trust Issued Receipts (''TIRs'').

On May 22, 2008, the Commission issued notice of and approved Amendment No. 1 on a temporary basis

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] On July 6, 2001, the Commission approved the OLPP, which was originally proposed by the Amex, CBOE, ISE, OCC, Phlx, and Pacific Exchange, Inc. (k/n/a NYSE Arca). *See* Securities Exchange Act Release No. 44521, 66 FR 36809 (July 13, 2001). On February 5, 2004, BSE was added as a sponsor to the OLPP. *See* Securities Exchange Act Release No. 49199, 69 FR 7030 (February 12, 2004). On March 21, 2008, Nasdaq was added as a sponsor to the OLPP. *See* Securities Exchange Act Release No. 57546 (March 21, 2008), 73 FR 16393 (March 27, 2008).

not to exceed 120 days, and solicited comment on the proposal.[4] The Commission received no comment letters in response to the Temporary Approval Order. This order approves Amendment No. 1 on a permanent basis.

II. Description of the Proposal

Currently, new January LEAPS are introduced shortly after the groups of LEAPS with the least time to expiration are converted to a conventional expiration symbol, generally when they have less than nine months to expiration. The proposal provides for a uniform time frame for the introduction of new LEAP series on equity option classes, options on ETFs, or options on TIRs.

By agreeing to a uniform time frame for the introduction of new LEAP series, the Participants to the OLPP intend to mitigate the number of option series available for trading during certain times of the year. The Participants to the OLPP intend that this will in turn lessen the rate of increase in quote traffic, because quotes will not be generated in the not-yet-available series.

The Participants to the OLPP represent that, for example, in 2007, if this proposal had been in effect, the industry would have eliminated one and a half billion (1,500,000,000) quotes over the three months of June, July, and August, out of just less than 100 billion quotes over all, for a savings of 1.5%. The affected series, however, generated less than three million (3,000,000) contracts traded in the same period, out of more than seven hundred eighty million (780,000,000) contracts total industry volume, or approximately .38%. The exchanges agree that the benefit from reduced quoting levels greatly exceeds the small cost in missed business.

In addition, the Participants to the OLPP may coordinate the date of introduction of new LEAP classes, so as to provide the least disruption on the options industry by having the flexibility to avoid holidays, expiration periods, and industry-wide tests which are scheduled from time to time.

III. Discussion

After careful review, the Commission finds that Amendment No. 1 is consistent with the requirements of the Act and the rules and regulations thereunder.[5] Specifically, the Commission finds that Amendment No. 1 to the OLPP is consistent with Section 11A of the Act[6] and Rule 608 thereunder[7] in that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets. Specifically, the Commission believes that by adopting a uniform time frame for the introduction of new LEAP series on equity option classes, options on ETFs, and options on TIRs, the options exchanges should reduce the number of option series available for trading during certain times of the year, and thus may reduce increases in the options quote rate because market participants would not be submitting quotes in the not-yet-available LEAP series. Accordingly, the Commission believes that it is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system to approve Amendment No. 1 to the OLPP on a permanent basis.

IV. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act,[8] and Rule 608 thereunder,[9] that proposed Amendment No. 1 to the OLPP be, and it hereby is, approved on a permanent basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17213 Filed 7–25–08; 8:45 am]

BILLING CODE 8010–01–P

[4] *See* Securities Exchange Act Release No. 57848 (May 22, 2008), 73 FR 30985 (May 29, 2008) (''Temporary Approval Order'').

[5] In approving this proposed OPRA Plan Amendment, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] 15 U.S.C. 78k–1.

[9] 17 CFR 242.608.

[10] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on July 30, 2008 at 10 a.m., in the Auditorium, Room L–002.

The subject matter of the Open Meeting will be:

1. The Commission will consider whether to publish an interpretive release to provide guidance regarding the use of company Web sites under the Securities Exchange Act of 1934 and the antifraud provisions of the federal securities laws.

2. The Commission will consider whether to publish for comment a proposed rule change by the Municipal Securities Rulemaking Board to establish the continuing disclosure service of the MSRB's Electronic Municipal Market Access (EMMA) system. The Commission will also consider whether to propose amendments to Rule 15c2–12 under the Securities Exchange Act of 1934 to enhance the disclosure of information regarding municipal securities.

3. The Commission will consider whether to issue proposed guidance to investment company boards of directors to assist them in fulfilling their oversight responsibilities with respect to an investment adviser's trading of fund portfolio securities, including the use of fund brokerage commissions to purchase brokerage and research services.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: July 23, 2008.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17306 Filed 7–25–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58199; File No. SR–Amex–2008–44]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving a Proposed Rule Change Modifying the Provisions Governing Contacts Between Specialists and Issuers

July 21, 2008.

I. Introduction

On May 20, 2008, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to amend

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Amex Rule 27 to (i) modify the provisions governing contacts between specialists and issuers or, in the case of exchange traded funds (''ETFs'') and structured products, sponsors, and (ii) clarify other procedures applicable to the allocation of securities to specialists. The proposed rule change was published for comment in the **Federal Register** on June 18, 2008.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description

The purpose of the proposed rule change is to revise Amex Rule 27 in order to better reflect the different treatment that is afforded ETFs and structured products in connection with the allocation of securities to specialists. This is reflected in the fact that ETFs and structured products are typically allocated to a specialist within a few days after approval of the issuer's application for listing on the Exchange. However, in the case of other equity securities, the allocation process may take a longer period of time so that allocation to a specialist may not occur within a few days of approval of the issuer's listing application.

Amex Rule 27 sets forth the procedures and policies pursuant to which the Allocations Committee allocates securities listing on the Exchange to specialists. In particular, paragraph (e) describes the Exchange's ''issuer choice'' program under which issuers or, in the case of an ETF or structured product, sponsors, select their specialists from a list of the most qualified specialists prepared by the Allocations Committee and is designed to be read in conjunction with Commentaries .02 and .03 thereto.

Commentaries .02 and .03 contain guidelines for communications between specialists and issuers or, in the case of ETFs and structured products, sponsors that have not yet listed a security on the Exchange, have applied to list a security on the Exchange and/or have a security that has been approved for listing on the Exchange.

(i) Commentary .02

Commentary .02 applies to equity securities other than ETFs and structured products, and prohibits specialists and other members from making direct or indirect contact with an issuer that has requested a listing qualification review[4] for the purpose of influencing the issuer's choice of a specialist. In addition, any communication between equity specialists and issuers is prohibited once an issuer has been approved for listing and the Allocations Committee has prepared the list of qualified specialists. The exception to such prohibition is Exchange-arranged interviews between an issuer approved for listing and any specialist(s) the issuer requests to interview.

The interviews are closely monitored by the Exchange and the Exchange will take appropriate action in the event an inappropriate communication is deemed by the Exchange to have occurred during the interview. The Exchange proposes to clarify that such appropriate action may include the disqualification of a specialist for the allocation.

The Exchange also proposes adding a provision to Commentary .02 addressing post-interview communications between specialists and issuers approved for listing on the Exchange. The proposed rule change would prohibit post-interview contacts between specialists and issuers and provide a means for issuers to obtain further information from the specialists through the Exchange's Equity Sales Group.

Finally, the Exchange proposes to simplify the description of the procedures set forth in Commentary .02 by adding defined terms and moving the provision concerning an issuer's ability to request specialists to be placed on the list of qualified specialists to paragraph (e)(i) of Rule 27.

(ii) Commentary .03

Current Commentary .03 applies only to ETFs and structured products and contains provisions governing contacts between specialists and other members and sponsors and issuers prior to such sponsor or issuer deciding to list a security on the Exchange. Pursuant to current Commentary .03, specialists and other members must notify the Exchange in writing before any planned contact with a potential sponsor or issuer for the purpose of listing the ETFs or structured products of such sponsor or issuer on the Exchange, or within five (5) business days of unanticipated contact where discussions regarding the listing occur. Exchange approval of planned contact is required and the Exchange will grant such approval where it appears that the contact will assist rather than impede the Exchange's effort to list the new ETF or structured product.

ETF and structured product specialists are also currently required to promptly report to the Exchange any representations or commitments that they, or an individual acting on their behalf, have made to an employee of, or any individual acting on behalf of, an issuer or sponsor. The Exchange proposes to amend Commentary .03 to require specialists to only disclose in their applications to be allocated an ETF or structured product representations or commitments that relate to the prospective listing of the ETF or structured product and that are made within the six (6) months preceding the date allocation applications are solicited with respect to that ETF or structured product. The Exchange further proposes, in the event an ETF or structured product is not allocated within five (5) days of the allocation application, to require specialists and other members to update their applications accordingly to report all representations or commitments since last reported to the Exchange.

Commentary .03 also includes procedures related to the interview process. The Exchange proposes to clarify that such procedures apply to issuers and sponsors whose securities have been approved for listing on the Exchange in accordance with Rule 27(e)(i).

(iii) Other Changes

Finally, the Exchange proposes to make technical revisions to paragraphs (c) and (e)(i) of Rule 27 in order to consistently use the term ''issuer'' as opposed to ''company'', clarify the applicability of the provisions to equity, ETF and structured product listings and, in general, to simplify the reading of the text.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[6] which requires, among other things, that a national securities exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open

[3] Securities Exchange Act Release No. 57952 (June 11, 2008), 73 FR 34809.

[4] The listing qualification review is the process whereby an issuer undergoes review by the Exchange's Listing Qualifications Department. The listing qualification review will commence once the listing application is submitted to the Exchange.

[5] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

market and a national market system, and, in general, to protect investors and the public interest.

Specifically, the Exchange is proposing, among other things, to amend Commentary .03 to Amex Rule 27 to eliminate the requirement that specialists and other members notify the Exchange in writing before any planned contact with a potential sponsor or issuer for the purpose of listing the ETFs or structured products of such sponsor or issuer on the Exchange, or within five business days of unanticipated contact where discussions regarding the listing occur. As noted above, under current Commentary .03, the Exchange will grant such approval where it appears that the contact will assist rather than impede the Exchange's effort to list the new ETF or structured product. The Exchange has stated that it no longer believes this restriction is necessary because it is unlikely that such contact would impede the Exchange's effort to list an issuer. The Commission believes this is a reasonable modification of the Exchange's allocation procedures. As discussed below, representations or commitments that relate to the prospective listing still must be disclosed on the listing application.

The Exchange also proposes to shorten the disclosure timeframe in Commentary .03 to require specialists to only disclose in their applications to be allocated an ETF or structured product representations or commitments that relate to the prospective listing of the ETF or structured product and that are made within the six months preceding the date allocation applications are solicited with respect to that ETF or structured product. The Commission believes that this shorter timeframe should be sufficient to enable the Exchange to continue to monitor the appropriateness of such representations and/or commitments, without impairing the allocation process by requiring specialists to disclose every representation or commitment that they have ever made to the issuer or sponsor. The Commission also notes that ETFs and structured products are generally allocated to the specialist very quickly after approval of the listing application. However, in the event an ETF or structured product is not allocated within five days of the allocation application, specialists and other members would be required to update their applications to report all representations or commitments since last reported to the Exchange, which should help to ensure the integrity of the allocation process.

In addition, the Exchange proposes a change to Commentary .03 to clarify that the Exchange may arrange telephone or in-person interviews on the Exchange's premises, if an issuer or sponsor wishes to interview one or more specialists once the Allocation Committee has prepared the list of qualified specialists. Because ETFs and structured products are typically allocated to a specialist within a few days after (and often the same day as) approval of the issuer's application for listing on the Exchange, the Commission would expect such interviews to occur infrequently. Should an interview occur, the Commission notes that Commentary .03 permits the Performance Committee to disqualify any specialist that has made inappropriate representations.

Finally, in addition to other minor changes to Rule 27 and Commentaries .02 and .03 thereto, the proposal amends Commentary .02 to clarify that the Exchange's Performance Committee may disqualify for allocation any specialist that is deemed to have made an inappropriate communication to an issuer of an equity security that has been approved for listing on the Exchange. The Commission notes that this proposed change would make Commentary .02 more consistent with Commentary .03. The Exchange also proposes adding a provision to Commentary .02 that would prohibit post-interview contacts between specialists and issuers and provide a means for issuers to obtain further information from the specialists through the Exchange's Equity Sales Group. The Commission believes that these proposed changes to Commentary .02 are reasonable modifications of, and should further the public interest by helping to promote the integrity of, the allocation process.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–Amex–2008–44) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17141 Filed 7–25–08; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58195; File No. SR–BSE–2008–39]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a Pilot Program That Allows No Minimum Size Order Requirement and Certain Premature Terminations Under the Price Improvement Period Process on the Boston Options Exchange Facility Until November 18, 2008

July 18, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 18, 2008, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Supplementary Material to section 18 (The Price Improvement Period ''PIP'') of Chapter V of the Rules of the Boston Options Exchange Group, LLC (''BOX'') to extend a pilot program that permits BOX to have no minimum size requirement for orders entered into the PIP and under certain circumstances permits the premature termination of the PIP process (''PIP Pilot Program''). The text of the proposed rule change is available on the BSE's Web site: *http://www.bostonstock.com*, the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the PIP Pilot Program under the BOX Rules for four (4) additional months. The PIP Pilot Program allows BOX to have no minimum size requirement for orders entered into the PIP process and under certain circumstances permits the premature termination of the PIP process.[5] The proposed rule change retains the text of Supplementary Material .01 to section 18 of Chapter V of the BOX Rules and seeks to extend the operation of the PIP Pilot Program until November 18, 2008.

The Exchange notes that the PIP Pilot Program provides small customer orders with benefits not available under the rules of some other exchanges. One of the important factors of the PIP Pilot Program is that it guarantees Participants the right to trade with their customer orders that are less than 50 contracts. In particular, any order entered into the PIP is guaranteed an execution at the end of the auction at a price at least one penny better than the national best bid or offer.

In further support of this proposed rule change, and as required by the Original PIP Pilot Program Approval Order, the Exchange represents that it has been submitting to the Commission a monthly PIP Pilot Program Report, offering detailed data from, and analysis of, the PIP Pilot Program.

To aid the Commission in its evaluation of the PIP Pilot Program, BSE represents that BOX will provide the following additional information each month:

(1) The number of orders of 50 contracts or greater entered into the PIP auction;

(2) The percentage of all orders of 50 contracts or greater sent to BOX that are entered into BOX's PIP auction;

(3) The spread in the option, at the time an order of 50 contracts or greater is submitted to the PIP auction;

(4) For PIP trades for orders of fewer than 50 contracts, the percentage executed at the National Best Bid or Offer (''NBBO'') plus $.01, plus $.02, plus $.03, etc.;

(5) For PIP trades for orders of 50 contracts or greater, the percentage executed at the NBBO plus $.01, plus $.02, plus $.03, etc.;

(6) The number of orders submitted by Order Flow Providers (''OFPs'') when the spread was $.05, $.10, $.15, etc. For each spread, BOX will specify the percentage of contracts in orders of fewer than 50 contracts submitted to BOX's PIP that were traded by: (a) The OFP that submitted the order to the PIP; (b) BOX Market Makers assigned to the class; (c) other BOX Participants; (d) Public Customer Orders (including Customer PIP Orders (''CPOs'')); and (e) unrelated orders (orders in standard increments entered during PIP). For each spread BOX will also specify the percentage of contracts in orders of 50 contracts or greater submitted to BOX's PIP that were traded by: (a) the OFP that submitted the order to the PIP; (b) BOX Market Makers assigned to the class; (c) other BOX Participants; (d) Public Customer Orders (including CPOs); and (e) unrelated orders (orders in standard increments entered during PIP);

(7) For the first Wednesday of each month: (a) The total number of PIP auctions on that date; (b) the number of PIP auctions where the order submitted to the PIP was fewer than 50 contracts; (c) the number of PIP auctions where the order submitted to the PIP was 50 contracts or greater; (d) the number of PIP auctions (for orders of fewer than 50 contracts) with 0 participants (excluding the initiating participant), 1 participant (excluding the initiating participant), 2 participants (excluding the initiating participant), 3 participants (excluding the initiating participant), 4 participants (excluding the initiating participant), etc., and (e) the number of PIP auctions (for orders of 50 contracts or greater) with 0 participants (excluding the initiating participant), 1 participant (excluding the initiating participant), 2 participants (excluding the initiating participant), 3 participants (excluding the initiating participant), 4 participants (excluding the initiating participant), etc.; and

(8) For the third Wednesday of each month: (a) The total number of PIP auctions on that date; (b) the number of PIP auctions where the order submitted to the PIP was fewer than 50 contracts; (c) the number of PIP auctions where the order submitted to the PIP was 50 contracts or greater; (d) the number of PIP auctions (for orders of fewer than 50 contracts) with 0 participants (excluding the initiating participant), 1 participant (excluding the initiating participant), 2 participants (excluding the initiating participant), 3 participants (excluding the initiating participant), 4 participants (excluding the initiating participant), etc., and (e) the number of PIP auctions (for orders of 50 contracts or greater) with 0 participants (excluding the initiating participant), 1 participant (excluding the initiating participant), 2 participants (excluding the initiating participant), 3 participants (excluding the initiating participant), 4 participants (excluding the initiating participant), etc.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of section 6(b) of the Act,[6] in general, and section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the data demonstrates that there is sufficient investor interest and demand to extend the PIP Pilot Program for an additional four (4) months. The Exchange represents that the Pilot Program is designed to provide investors with real and significant price improvement regardless of the size of the order.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[5] The Pilot Program is currently set to expire on July 18, 2008. *See* Securities Exchange Act Release No. 55999 (July 2, 2007), 72 FR 37549 (July 10, 2007) (SR–BSE–2007–27); *see also* Securities Exchange Act Release No. 54066 (June 29, 2006), 71 FR 38434 (July 6, 2006) (SR–BSE–2006–24); *see also* Securities Exchange Act Release No. 52149 (July 28, 2005), 70 FR 44704 (August 3, 2005) (SR–BSE–2005–22); *see also* Securities Exchange Act Release No. 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004) (SR–BSE–2002–15) (''Original PIP Pilot Program Approval Order''). *See also* Securities Exchange Act Release No. 51821 (June 10, 2005), 70 FR 35143 (June 16, 2005) (SR–BSE–2004–51) (Order approving, among other things, under certain circumstances the premature termination of a PIP process).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A)[8] of the Act and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay, which would make the rule change operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the PIP pilot program to continue without interruption.[10] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.[11]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[11] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change.

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–BSE–2008–39 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–BSE–2008–39. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BSE–2008–39 and should be submitted on or before August 18, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17119 Filed 7–25–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58196; File No. SR–CBOE–2008–76]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend Two Pilot Programs Related to the Exchange's Automated Improvement Mechanism Until July 18, 2009

July 18, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 17, 2008, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to extend two pilot programs related to the Exchange's Automated Improvement Mechanism (''AIM'') for one year, until July 18, 2009. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In February 2006, CBOE obtained approval of a filing adopting the AIM auction process.[5] AIM exposes certain orders electronically to an auction process to provide such orders with the opportunity to receive an execution at an improved price. The AIM auction is available only for orders that an Exchange member represents as agent and for which a second order of the same size as the ''Agency Order'' (and on the opposite side of the market) is also submitted (effectively stopping the Agency Order at a given price).

Two components of AIM were approved on a pilot basis: (1) That there is no minimum size requirement for orders to be eligible for the auction, and (2) that the auction will conclude prematurely anytime there is a quote lock on the Exchange pursuant to Rule 6.45A(d).[6] In connection with the pilot programs, the Exchange has submitted to the Commission reports providing detailed AIM auction and order execution data. In July 2006, the Exchange extended the pilot program until July 18, 2007.[7] In July 2007, the Exchange extended the pilot program until July 18, 2008.[8] The proposed rule change merely extends the duration of the pilot programs until July 18, 2009. Extending the pilots for an additional year will allow the Commission more time to consider the impact of the pilot programs on AIM order executions. To further aid the Commission in its evaluation of the pilot program, CBOE represents that it will provide the following additional information each month:

(1) For the first Wednesday of each month: (a) The total number of AIM auctions on that date; (b) the number of AIM auctions where the order submitted to the AIM was fewer than 50 contracts; (c) the number of AIM auctions where the order submitted to the AIM was 50 contracts or greater; (d) the number of AIM auctions (for orders of fewer than 50 contracts) with 0 participants (excluding the Initiating Member), 1 participant (excluding the Initiating Member), 2 participants (excluding the Initiating Member), 3 participants (excluding the Initiating Member), 4 participants (excluding the Initiating Member), etc., and (e) the number of AIM auctions (for orders of 50 contracts or greater) with 0 participants (excluding the Initiating Member), 1 participant (excluding the Initiating Member), 2 participants (excluding the Initiating Member), 3 participants (excluding the Initiating Member), 4 participants (excluding the Initiating Member), etc.

(2) For the third Wednesday of each month: (a) The total number of AIM auctions on that date; (b) the number of AIM auctions where the order submitted to the AIM was fewer than 50 contracts; (c) the number of AIM auctions where the order submitted to the AIM was 50 contracts or greater; (d) the number of AIM auctions (for orders of fewer than 50 contracts) with 0 participants (excluding the Initiating Member), 1 participant (excluding the Initiating Member), 2 participants (excluding the Initiating Member), 3 participants (excluding the Initiating Member), 4 participants (excluding the Initiating Member), etc., and (e) the number of AIM auctions (for orders of 50 contracts or greater) with 0 participants (excluding the Initiating Member), 1 participant (excluding the Initiating Member), 2 participants (excluding the Initiating Member), 3 participants (excluding the Initiating Member), 4 participants (excluding the Initiating Member), etc.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[9] of the Act in general and furthers the objectives of Section 6(b)(5)[10] in particular in that by allowing the Commission additional time to evaluate the AIM pilot programs, it should serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)[11] of the Act and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay, which would make the rule change operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the AIM pilot programs to continue without interruption.[13] Accordingly, the Commission designates the proposed

[5] *See* Securities Exchange Act Release No. 53222 (February 3, 2006), 71 FR 7089 (February 10, 2006) (SR–CBOE–2005–60).

[6] That rule relates to situations where a Market-Maker's quote interacts with the quote of another CBOE Market-Maker (*i.e.,* when internal quotes lock).

[7] *See* Securities Exchange Act Release No. 54147 (July 14, 2006), 71 FR 41487 (July 21, 2006) (SR–CBOE–2006–64).

[8] *See* Securities Exchange Act Release No. 56094 (July 18, 2007), 72 FR 40910 (July 25, 2007) (SR–CBOE–2007–80).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78(f)(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

rule change operative upon filing with the Commission.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2008–76 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–CBOE–2008–76. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2008–76 and should be submitted on or before August 18, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17120 Filed 7–25–08; 8:45 am]

BILLING CODE 8010–01–P

[14] Rule 19b–4(f)(6)(iii) requires the Exchange to provide the Commission with written notice of its intention to file the proposed rule change along with a brief description of the text of the proposed rule change, at least five business days prior to filing the proposal with the Commission, or such shorter time as designated by the Commission. The Commission has determined to waive the five business day period in this case.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58200; File No. SR–CBOE–2008–77]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Interim Trading Permit Access Fee

July 21, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 18, 2008, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. CBOE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A),[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to adopt a monthly access fee for Interim Trading Permit holders. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE Rule 3.27(f)(ii) provides that Interim Trading Permit holders shall pay to the Exchange a monthly access fee set by the Exchange and that the access fee shall be implemented through the submission of a proposed rule change to the Commission under section 19(b)(3)(A) of the Act.[5] The purpose of this rule filing is to propose that the access fee for Interim Trading Permit holders be set at $12,387 per month.

The amount of the proposed access fee is equal to the current indicative lease rate. Under Rule 3.27(b), the ''indicative lease rate'' is the highest clearing firm floating monthly rate[6] of the CBOE Clearing Members that assist in facilitating at least 10% of the CBOE transferable membership leases. The Exchange determined the current indicative lease rate by polling each of these Clearing Members and obtaining the clearing firm floating monthly rate designated by each of these Clearing Members for the month of July 2008.

The Exchange believes that the proposed access fee constitutes an equitable allocation of reasonable dues,

[5] 15 U.S.C. 78s(b)(3)(A).

[6] Rule 3.27(b) defines the term ''clearing firm floating monthly rate'' as the floating monthly rate that a Clearing Member designates, in connection with transferable membership leases that the Clearing Member assisted in facilitating, for leases that utilize that monthly rate.

fees, and other charges among persons using its facilities because it is equivalent to the current lease rate paid by a large percentage of lessees of CBOE transferable memberships and is equivalent to the current access fee assessed by the Exchange to persons granted temporary CBOE membership status (''Temporary Members'') pursuant to Interpretation and Policy .02 under CBOE Rule 3.19.[7] Additionally, by setting the proposed access fee at the indicative lease rate, the Exchange is utilizing a benchmark that is used for other purposes under various provisions of Rule 3.27. For example, the Exchange may issue Interim Trading Permits under Rule 3.27(b) only if, among other things, the Exchange determines that there are insufficient transferable memberships available for lease at that time at a rate reasonably related to the indicative lease rate. In addition, Rule 3.27(d) provides that, under specified circumstances, the Exchange will make a payment to lessors of CBOE transferable memberships that notify the Exchange that their memberships remain unleased while Interim Trading Permits are outstanding, and the amount of that payment is the indicative lease rate (assuming the number of Interim Trading Permits exceeds the number of these open leases). Setting the proposed access fee equal to the indicative lease rate therefore is consistent with these other provisions.[8]

The Exchange may, and likely will, further adjust the proposed access fee in the future through the submission of a further rule filing pursuant to section 19(b)(3)(A)(ii) of the Act[9] if the Exchange determines that it would be appropriate to do so, such as to take into consideration changes in the indicative lease rate.

Rule 3.27(f)(ii) provides that the access fee for Interim Trading Permit holders shall be due and payable in accordance with the provisions of the Exchange Fee Schedule and shall be the same for all Interim Trading Permit holders.

The Exchange proposes to include in the Exchange Fee Schedule the following procedural provisions related to the assessment of the proposed access fee. The proposed access fee will be assessed to each Interim Trading Permit holder for each Interim Trading Permit issued to the holder. Consistent with Rule 3.27(c), the proposed access fee and any other applicable monthly fees will be assessed for each calendar month unless an Interim Trading Permit holder provides written notice to the CBOE Membership Department on or before the fifteenth day of the preceding calendar month that the holder is terminating the Interim Trading Permit effective no later than the last day of that preceding calendar month.[10] The proposed access fee will be due and payable for each calendar month on the first day of that calendar month. If an Interim Trading Permit is issued during a calendar month after the first day of the month, the proposed access fee for that calendar month will be prorated and will be assessed as of the date of the issuance of the Interim Trading Permit. The proposed access fee will be non-refundable and will be assessed through the integrated billing system.

2. Statutory Basis

For the reasons described above, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(4) of the Act,[12] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act[13] and subparagraph (f)(2) of Rule 19b–4[14] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2008–77 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–CBOE–2008–77. 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

[7] *See* Securities Exchange Act Release No. 58073 (July 1, 2008), 73 FR 39357 (July 9, 2008) (SR–CBOE–2008–71), which set the current access fee for Temporary Members at $12,387 per month.

[8] Because Interim Trading Permit holders possess a feature that does not exist in the typical lease arrangement for a CBOE transferable membership, the Exchange also believes that it would be equitable to assess Interim Trading Permit holders an access fee that is higher than the indicative lease rate if the Exchange chose to do so in the future through the submission of a subsequent proposed rule change pursuant to section 19(b)(3)(A)(ii) of the Act, 15 U.S.C. 78s(b)(3)(A)(ii). Under Rule 3.27(c), an Interim Trading Permit can be terminated only (1) if the holder terminates the Interim Trading Permit, (2) as a result of regulatory action against the holder, (3) in the event of a demutualization, or (4) through a rule change approved by the Commission. On the other hand, the typical lease arrangement for a transferable membership can be terminated by the lessor upon a month's notice to the lessee. As a result, Interim Trading Permit holders enjoy more certainty than lessees with respect to their trading access to the Exchange and the Exchange could determine to assess them a higher access fee to reflect that certainty.

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] For example, an Interim Trading Permit holder that did not wish to be assessed the proposed access fee and any other applicable monthly fees for the month of September 2008 would need to provide notice to the Membership Department on or before August 15, 2008 that the holder was terminating the Interim Trading Permit effective no later than August 31, 2008.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CBOE–2008–77 and should be submitted on or before August 18, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17142 Filed 7–25–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58204; File No. SR–CBOE–2008–64]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Amending CBOE Rules 5.3 and 5.4 To Enable the Listing and Trading of Options on Index-Linked Securities

July 22, 2008.

On June 19, 2008, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder to amend CBOE Rules 5.3 and 5.4 to list and trade options on equity index-linked securities, commodity-linked securities, currency-linked securities, fixed income index-linked securities, futures-linked securities, and multifactor index-linked securities (collectively referred to as ''Index-Linked Securities'') that are principally traded on a national securities exchange and an ''NMS stock'' as defined in Rule 600 of Regulation NMS.[3] The proposed rule change was published for comment in the **Federal Register** on July 1, 2008 for a 15-day comment period.[4] On July 1, 2008, the Exchange submitted Amendment No. 1 to the proposed rule change.[5] The Commission received no comment letters regarding the proposal. This order approves the proposed rule change, as modified.

Index-Linked Securities are designed for investors who desire to participate in a specific market segment by providing exposure to one or more identifiable underlying securities, commodities, currencies, derivative instruments or market indexes of the foregoing. Index-Linked Securities are the non-convertible debt of an issuer that have a term of at least one year but not greater than thirty years. Despite the fact that Index-Linked Securities are linked to at least one underlying index or asset (''Reference Asset''), each trade as a single, exchange-listed security. Accordingly, rules pertaining to the listing and trading of standard equity options would apply to options on Index-Linked Securities.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[6] and, in particular, the requirements of Section 6 of the Act.[7] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[8] which requires, among other things, that the rules of a national securities exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In addition, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[9] for approving the proposed rule change, as modified, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission notes this proposed rule change, as modified, is substantively identical to that of NYSE Arca, Inc., which was published for a 21-day comment period and generated no comments.[10] Therefore, the Commission does not believe that this proposal raises any new regulatory issues different from that of the NYSE Arca, Inc. proposal.

Listing and Trading of Options on Index-Linked Securities

As set out more fully in the Exchange's notice of its proposal, CBOE's proposed rules include requirements regarding initial and continued listing standards, the creation/redemption process for Index-Linked Securities, and trading halts. Index-Linked Securities must be traded through a national securities exchange or through the facilities of a national securities association, and must be ''NMS stock'' as defined under Rule 600 of Regulation NMS.[11]

The Commission notes that, pursuant to the proposed Interpretation and Policy .13(3) to CBOE Rule 5.3 and Interpretation and Policy .16 to CBOR Rule 5.4, Index-Linked Securities will be subject to the initial and continuing eligibility standards for underlying securities provided in CBOE Rules 5.3 and 5.4, as applicable. In particular, to be options eligible, an Index-Linked Security must either meet the criteria and guidelines for underlying securities set forth in Interpretation and Policy .01 to CBOE Rule 5.3, or alternately, the Index-Linked Securities must be redeemable at the option of the holder at least on a weekly basis through the issuer at a price related to the applicable underlying Reference Asset, and the issuing company must be obligated to issue or repurchase the securities in aggregation units for cash or cash equivalents satisfactory to the issuer of Index-Linked Securities which underlie the option as described in the Index-Linked Securities prospectus.

To continue to be options eligible, the Index-Linked Security must remain an NMS stock listed on a national securities exchange. The Exchange will also consider the suspension of opening transactions in any series of options of the class covering Index-Linked Securities where the Index-Linked security does not satisfy the requirements set out in proposed Interpretation and Policy .16 to CBOE Rule 5.4. These include: (1) Continued compliance with Interpretation and Policy .13 to CBOE Rule 5.3; (2)

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* 17 CFR 242.600(b)(47).

[4] *See* Securities Exchange Act Release No. 58007 (June 23, 2008), 73 FR 37516.

[5] Amendment No. 1 corrects a minor typographical omission. Because the amendment is technical in nature, the Commission is not publishing it for comment.

[6] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(2).

[10] *See* Securities Exchange Act Release No. 57950 (June 11, 2008), 73 FR 34815 (June 18, 2008) (SR–NYSEArca–2008–57).

[11] 17 CFR 242.600(b)(47).

compliance with Interpretation and Policy .01 to CBOE Rule 5.4 or, for options covering Index-Linked Securities approved pursuant to Interpretation and Policy .13(3)(B) to CBOE Rule 5.3, continuing to be an NMS stock listed on a national securities exchange; and (3) the value of the underlying Reference Asset continues to be calculated and available. In addition, the Exchange retains discretion to suspend opening transactions in options on Index-Linked Securities where conditions make further dealings in such options inadvisable.

The Exchange represented that the addition of options on Index-Linked Securities will not have any effect on Exchange rules pertaining to position and exercise limits [12] or margin.[13]

Surveillance

The Commission notes that Exchange has represented that it will implement surveillance procedures for options on Index-Linked Securities, including adequate comprehensive surveillance sharing agreements with markets trading in non-U.S. components, as applicable. CBOE further represented that these procedures will be adequate to properly monitor Exchange trading of options on Index-Linked Securities and to deter and detect violations of Exchange rules. This order is based on these representations.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–CBOE–2008–64), as modified by Amendment No. 1, is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17212 Filed 7–25–08; 8:45 am]

BILLING CODE 8010–01–P

[12] *See* CBOE Rules 4.11 and 4.12.

[13] *See* CBOE Rule 12.3.

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58206; File No. SR–FINRA–2008–022]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating to the Membership Waive-In Process for Certain New York Stock Exchange Members

July 22, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 23, 2008, Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend NASD IM–1013–1, to address the applicability of the consolidated FINRA rules to member firms of the New York Stock Exchange LLC (''NYSE'') that became members of FINRA pursuant to the membership waive-in process set forth in IM–1013–1. The text of the proposed rule change is available at FINRA, the Commission's Public Reference Room, and *http://www.finra.org.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 30, 2007, NASD and NYSE consolidated their member firm regulation operations into a combined organization, FINRA. To achieve the transaction's goal to eliminate duplicative member firm regulation and enable FINRA to meet its new regulatory responsibilities, the NYSE amended NYSE Rule 2(b) to require FINRA membership as a condition of being an NYSE member organization (''Mandatory FINRA Membership filing'').[3]

As part of the transaction, FINRA incorporated into its existing rulebook NYSE rules related to member firm conduct (''Incorporated NYSE Rules''). Thus, the current FINRA rulebook consists of two sets of rules: (1) NASD rules and (2) the Incorporated NYSE Rules (together referred to herein as the ''Transitional Rulebook'').[4] The Incorporated NYSE Rules apply only to Dual Members.[5]

In furtherance of the consolidation, FINRA adopted NASD IM–1013–1 to

[3] *See* Securities Exchange Act Release No. 56654 (October 12, 2007), 72 FR 59129 (October 18, 2007) (SR–NYSE–2007–67) (amending the definition of ''member organization'' in NYSE Rule 2(b) to make FINRA membership a condition of being an NYSE member organization with a 60-day grace period for compliance); Securities Exchange Act Release No. 56953 (December 12, 2007), 72 FR 71990 (December 19, 2007) (SR–NYSE–2007–115) (extending the grace period for NYSE-only member organizations to apply for and be approved as FINRA members to June 30, 2008); Securities Exchange Act Release No. 58096 (July 3, 2008), 73 FR 39764 (July 10, 2008) (SR–NYSE–2008–54) (extending the grace period for NYSE-only member organizations to apply for and be approved as FINRA members to December 31, 2008). *See also* Securities Exchange Act Release No. 56751 (November 6, 2007), 72 FR 64098 (November 14, 2007) (SR–FINRA–2007–19) (amending the definition of ''member organization'' in FINRA's NYSE Rule 2(b) to make FINRA membership a condition of being an NYSE member organization).

[4] Pursuant to Rule 17d–2 under the Act, NASD, NYSE and NYSE Regulation Inc. entered into an agreement to reduce regulatory duplication for firms that are members of both FINRA and the NYSE (''Dual Members'') by allocating regulatory responsibilities for the Incorporated NYSE Rules to FINRA. FINRA has assumed examination, enforcement and surveillance responsibilities under the agreement relating to compliance by Dual Members to the extent such responsibilities involve member firm regulation. *See* Securities Exchange Act Release No. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (File No. 4–544).

[5] The Incorporated NYSE Rules continue to apply to persons affiliated with Dual Members to the same extent and in the same manner as they did before the consolidation. In applying the Incorporated NYSE Rules to Dual Members and such affiliated persons, FINRA has incorporated the related interpretative positions set forth in the NYSE Rule Interpretations Handbook and NYSE Information Memos.

enable eligible NYSE member organizations to become FINRA members through an expedited process.[6] Under the process outlined in IM–1013–1, certain NYSE firms were eligible to automatically become FINRA members and to register all associated persons whose registrations were approved with NYSE in registration categories recognized by FINRA upon submission to FINRA's Member Regulation Department of a signed waive-in membership application. As provided in IM–1013–1, the NYSE firms admitted pursuant to IM–1013–1 (the ''Waive-in Firms'') currently are subject to the Incorporated NYSE Rules, FINRA's By-Laws and Schedules to By-Laws, including Schedule A (Assessments and Fees), and the NASD Rule 8000 (Investigations and Sanctions) and Rule 9000 (Code of Procedure) Series, provided that their securities business is limited to floor brokerage on the NYSE, or routing away to other markets orders that are ancillary to their core floor business under NYSE Rule 70.40 (''permitted floor activities'').[7] If a Waive-In Firm seeks to expand its business operations beyond the permitted floor activities, the firm must apply for and receive approval to engage in such business activity pursuant to NASD Rule 1017 (Application for Approval of Change in Ownership, Control, or Business Operations). Upon approval of such business expansion, the firm would become subject to all NASD rules, in addition to the Incorporated NYSE Rules.

FINRA has established a process to develop a new consolidated rulebook (''Consolidated FINRA Rulebook''), which will consist only of FINRA Rules and will apply to all FINRA members, unless such rules have a more limited application by their terms.[8] With limited exceptions specified in the Act, the Commission must approve the FINRA Rules prior to their becoming effective in the new Consolidated FINRA Rulebook. FINRA intends to obtain those approvals through a series of rule filings with the Commission. As the Commission approves new rules for inclusion in the Consolidated FINRA Rulebook and they become effective, FINRA members will become subject to those rules. Members also will remain subject to the rules remaining in the Transitional Rulebook. (The Incorporated NYSE Rules in the Transitional Rulebook will continue to apply only to Dual Members.) As the Consolidated FINRA Rulebook expands with Commission-approved final FINRA Rules, the Transitional Rulebook will be reduced by the elimination of those rules, or sections thereof, that address the same subject matter of regulation. When the Consolidated FINRA Rulebook is completed, the Transitional Rulebook will have been eliminated in its entirety.

The proposed rule change would amend NASD IM–1013–1 to address the applicability of consolidated FINRA rules to the Waive-In Firms. FINRA believes that the Waive-In Firms should be subject to all consolidated FINRA Rules, unless the rules have a more limited application by their terms. In addition, this amendment is essential because all of the existing Incorporated NYSE Rules currently applicable to the Waive-In Firms are scheduled to be eliminated from the Transitional Rulebook as the consolidated FINRA Rules are adopted and implemented (although it may be the case concepts or parts of Incorporated NYSE Rules will become adopted as part of the consolidated FINRA rules). Absent the proposed rule change, the elimination of the those legacy rules in the Transitional Rulebook applicable to the Waive-In Firms would result in a gap in regulation for such firms.

Accordingly, the proposed rule change would amend IM–1013–1 to specify that the Waive-In Firms will be subject to FINRA's By-Laws and Schedules to By-Laws, including Schedule A, the consolidated FINRA rules and the Incorporated NYSE Rules, provided that their securities business is limited to the permitted floor activities. If a Waive-In Firm seeks to expand its business operations to include any activities other than the permitted floor activities, the firm must continue to apply for and receive approval pursuant to NASD Rule 1017. Upon approval of such expansion, the firm would be subject to all NASD rules, in addition to the consolidated FINRA rules and the Incorporated NYSE Rules (as is the case with the Incorporated NYSE Rules, when the Consolidated FINRA Rulebook is completed, all NASD rules would be eliminated; although it may be the case that concepts or parts of NASD rules will become adopted as part of the consolidated FINRA rules). FINRA is proposing to continue to require the Waive-In Firms to comply with the Incorporated NYSE Rules and, as applicable, NASD Rule 1017 until such time as these rules are eliminated as part of the adoption of the Consolidated FINRA Rulebook.[8]

FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A of the Act, including Section 15A(b)(6) of the Act,[9] in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will ensure that members eligible for the waive-in process continue to meet appropriate regulatory standards, resulting in effective and efficient regulation of brokers and dealers, thereby enhancing investor protection.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory

[6] *See* Securities Exchange Act Release No. 56653 (October 12, 2007); 72 FR 59127 (October 18, 2007) (SR–NASD–2007–056).

[7] For purposes of IM–1013–1, activities that are ancillary to a Floor broker's core business include (i) routing orders in NYSE-traded securities to an away market for any reason relating to their ongoing Floor activity, including regulatory compliance or meeting best-execution obligations, or (ii) provided that the majority of transactions effected by the firm are effected on the NYSE, sending to other markets orders in NYSE-traded or non-NYSE-traded securities and/or futures if such orders relate to hedging positions in NYSE-traded securities, or are part of arbitrage or program trade strategies that include NYSE-traded securities.

[8] FINRA issued an *Information Notice* on March 12, 2008 that describes the rulebook consolidation process in greater detail.

[8] FINRA notes that the Waive-In Firms will continue to be subject to the content of the NASD Rule 8000 and 9000 Series, insofar as FINRA has filed a rule change to transfer these two rule series, without substantive change, to the Consolidated FINRA Rulebook. *See* Securities Exchange Release No. 58176 (July 16, 2008) (SR–FINRA–2008–021).

[9] 15 U.S.C. 78*o*–3(b)(6).

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–FINRA–2008–022 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–FINRA–2008–022. 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 FINRA. 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–FINRA–2008–022 and should be submitted on or before August 18, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17209 Filed 7–25–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58197; File No. SR–ISE–2008–60]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of the Price Improvement Mechanism Pilot Program

July 18, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 17, 2008, the International Securities Exchange, LLC (the ''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the ISE. The ISE has designated the proposed rule change as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend two pilot programs related to its Price Improvement Mechanism (''PIM''). The text of the proposed rule amendment is as follows, with proposed deletions in [brackets], and proposed additions *italicized:*

* * * * *

Rule 723. Price Improvement Mechanism for Crossing Transactions

* * * * *

Supplementary Material to Rule 723

.01–.02 No Change.

.03 Initially, and for at least a Pilot Period expiring on July 18, *2009* [2008], there will be no minimum size requirements for orders to be eligible for the Price Improvement Mechanism. During the Pilot Period, the Exchange will submit certain data, periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders within the Price Improvement Mechanism, that there is significant price improvement for all orders executed through the Price Improvement Mechanism, and that there is an active and liquid market functioning on the Exchange outside of the Price Improvement Mechanism. Any data which is submitted to the Commission will be provided on a confidential basis.

.04 No Change.

.05 Paragraphs (c)(5), (d)(5) and (d)(6) will be effective for a Pilot Period expiring on July 18, *2009* [2008]. During the Pilot Period, the Exchange will submit certain data relating to the frequency with which the exposure period is terminated by unrelated orders. Any data which is submitted to the Commission will be provided on a confidential basis.

.06–.07 No Change.

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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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently has two pilot programs related to its PIM.[5] The current pilot period provided in

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release Nos. 50819 (December 8, 2004), 69 FR 75093 (December 15, 2004) (approving the PIM Pilot (the ''Approval Order'')); 52027 (July 13, 2005), 70 FR 41804 (July 20, 2005) (Extending the PIM Pilot for an Additional Year).

paragraphs .03 and .05 of the Supplementary Material to Rule 723 is set to expire on July 18, 2008.[6] Paragraph .03 provides that there is no minimum size requirement for orders to be eligible for the Price Improvement Mechanism. Paragraph .05 concerns the termination of the exposure period by unrelated orders. In accordance with the Approval Order, the Exchange recently submitted certain data in support of extending the current pilot programs. The Exchange proposes to extend these pilot programs in their present form for an additional year, through July 18, 2009, to give the Exchange and the Commission additional time to evaluate the effects of these pilot programs before requesting permanent approval of the rules. To aid the Commission in its evaluation of the PIM Functionality, ISE represents that it will provide additional PIM-related data as requested.

2. Statutory Basis

The basis under the Act for this proposed rule change is found in Section 6(b)(5),[7] in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Since the Price Improvement Mechanism has been operating for a relatively short period of time, the Exchange believes it is appropriate to extend the pilot periods to provide the Exchange and Commission more data upon which to evaluate the rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

[6] *See* Securities Exchange Act Release No. 56156 (July 27, 2007), 72 FR 43305 (August 3, 2007) (SR–ISE–2007–66).

[7] 15 U.S.C. 78f(b).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6)[10] normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The ISE requests that the Commission waive the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii),[12] which would make the rule change operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the pilot periods to continue without interruption.[13] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2008–60 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–ISE–2008–60. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2008–60 and should be submitted on or before August 18, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17121 Filed 7–25–08; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(3)A).

[9] 17 CFR 240.19b–4(f)(6).

[10] *Id.*

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] *Id.*

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58201; File No. SR–NASDAQ–2008–043]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend the Definition of ''Non-Industry Director'' in the By-Laws of The NASDAQ OMX Group, Inc. and The NASDAQ Stock Market LLC

July 21, 2008.

On May 12, 2008, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder, a proposed rule change to amend the definition of ''Non-Industry Director'' in The NASDAQ OMX Group, Inc.'s by-laws (''NASDAQ OMX By-Laws'') and Nasdaq's by-laws (''Nasdaq By-Laws''). On May 28, 2008, Nasdaq filed Amendment No. 1. The proposed rule change was published for comment in the **Federal Register** on June 9, 2008.[2] The Commission received no comments regarding the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

Nasdaq proposes to amend NASDAQ OMX By-Laws and Nasdaq By-Laws to clarify that a director of an issuer of securities may be considered an ''issuer representative'' for purposes of provisions in these by-laws that require issuer representation on NASDAQ OMX's board of directors (''NASDAQ OMX Board'') and Nasdaq's board of directors (''Nasdaq Board''), respectively.

Section 4.3 of the NASDAQ OMX By-Laws currently provides that the number of Non-Industry Directors,[3] including at least one issuer representative, must equal or exceed the number of Industry Directors,[4] unless the NASDAQ OMX Board consists of ten or more directors, in which case at least two directors must be issuer representatives. Likewise, Article III, Section 2(a) of the Nasdaq By-Laws provides that the number of Non-Industry Directors,[5] including at least one issuer representative, must equal or exceed the number of Industry Directors[6] and Member Representative Directors,[7] unless the Nasdaq Board consists of ten or more directors, in which case at least two directors shall be issuer representatives.

The term ''issuer representative,'' however, is not defined in either the NASDAQ OMX By-Laws or the Nasdaq By-Laws. Instead, NASDAQ OMX By-Laws provide that ''Non-Industry Director'' means a director who is a Public Director,[8] an officer or employee of an issuer of securities listed on a national securities exchange operated by any Self-Regulatory Subsidiary,[9] or any other individual who would not be an Industry Director or Industry committee member. Similarly, Nasdaq By-Laws provide that ''Non-Industry Director'' means a director who is a Public Director,[10] an officer or employee of an issuer of securities listed on the national securities exchange operated by Nasdaq, or any other individual who would not be an Industry Director.

Because these definitions of Non-Industry Director could be construed to require that an issuer representative must be an officer or employee of an issuer but not a director, Nasdaq proposes to clarify the NASDAQ OMX By-Laws' and Nasdaq By-Laws' definitions of Non-Industry Director to include a reference to ''director'' so that these definitions could not preclude a director of an issuer from serving as an issuer representative.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[11] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(3) of the Act,[12] which requires that the rules of the exchange assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. The Commission believes that the proposed rule change is appropriate, because it would clarify that the director of a Nasdaq issuer could serve as an issuer representative on the NASDAQ OMX Board and Nasdaq Board.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–NASDAQ–2008–043), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17210 Filed 7–25–08; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] *See* Securities Exchange Act Release No. 57911 (June 3, 2008), 73 FR 32615.

[3] *See* Article I(m), NASDAQ OMX By-Laws.

[4] *See* Article I(j), NASDAQ OMX By-Laws.

[5] *See* Article I(v), Nasdaq By-Laws.

[6] *See* Article I(l), Nasdaq By-Laws.

[7] *See* Article I(q), Nasdaq By-Laws.

[8] *See* Article I(n), NASDAQ OMX By-Laws.

[9] *See* Article I(o), NASDAQ OMX By-Laws.

[10] *See* Article I(y), Nasdaq By-Laws.

[11] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58203; File No. SR–NYSEArca–2008–57]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change Amending NYSE Arca Rule 5.3 and Rule 5.4 To Enable the Listing and Trading of Options on Index-Linked Securities

July 22, 2008.

On May 29, 2008, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 [2] thereunder to amend NYSE Arca Rules 5.3 and 5.4 to list and trade options on equity index-linked securities, commodity-linked securities, currency-linked securities, fixed income index-linked securities, futures-linked securities, and multifactor index-linked securities (collectively referred to as ''Index-Linked Securities'') [3] that are principally traded on a national securities exchange and an ''NMS stock'' as defined in Rule 600 of Regulation NMS.[4] The proposed rule change was published for comment in the **Federal Register** on June 18, 2008 for a 21-day comment period.[5] The Commission received no comment letters regarding the proposal. This order approves the proposed rule change.

Index-Linked Securities are designed for investors who desire to participate in a specific market segment by providing exposure to one or more identifiable underlying securities, commodities, currencies, derivative instruments or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* NYSE Arca Equities Rule 5.2(j)(6).

[4] *See* 17 CFR 242.600(b)(47).

[5] *See* Securities Exchange Act Release No. 57950 (June 11, 2008), 73 FR 34815.

market indexes of the foregoing. Index-Linked Securities are the non-convertible debt of an issuer that have a term of at least one year but not greater than thirty years. Despite the fact that Index-Linked Securities are linked to at least one underlying index or asset (''Reference Asset''), each trade as a single, exchange-listed security. Accordingly, rules pertaining to the listing and trading of standard equity options would apply to options on Index-Linked Securities.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[6] and, in particular, the requirements of Section 6 of the Act.[7] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[8] which requires, among other things, that the rules of a national securities exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Listing and Trading of Options on Index-Linked Securities

As set out more fully in the Exchange's notice of its proposal, NYSE Arca's proposed rules include requirements regarding initial and continued listing standards, the creation/redemption process for Index-Linked Securities, and trading halts. Index-Linked Securities must be traded through a national securities exchange or through the facilities of a national securities association, and must be ''NMS stock'' as defined under Rule 600 of Regulation NMS.[9]

The Commission notes that, pursuant to the proposed NYSE Arca Rules 5.3(j)(3) and 5.4(m), Index-Linked Securities will be subject to the initial and continuing eligibility standards for underlying securities provided in NYSE Arca Rules 5.3 and 5.4, as applicable. In particular, to be options eligible, an Index-Linked Security must either meet the criteria and guidelines for underlying securities set forth in NYSE Arca Rule 5.3(a), or alternately, the Index-Linked Securities must be redeemable at the option of the holder at least on a weekly basis through the issuer at a price related to the applicable underlying Reference Asset, and the issuing company must be obligated to issue or repurchase the securities in aggregation units for cash or cash equivalents satisfactory to the issuer of Index-Linked Securities which underlie the option as described in the Index-Linked Securities prospectus.

To continue to be options eligible, the Index-Linked Security must remain an NMS stock listed on a national securities exchange. The Exchange will also consider the suspension of opening transactions in any series of options of the class covering Index-Linked Securities where the Index-Linked Security does not satisfy the requirements set out in proposed NYSE Arca Rule 5.4(m). These include: (1) Continued compliance with NYSE Arca Rule 5.3(j); (2) compliance with NYSE Arca 5.4(b) or, for options covering Index-Linked Securities approved pursuant to NYSE Arca Rule 5.3(j)(3)(B), continuing to be an NMS stock listed on a national securities exchange; and (3) the value of the underlying Reference Asset continues to be calculated and available. In addition, the Exchange retains discretion to suspend opening transactions in options on Index-Linked Securities where conditions make further dealings in such options inadvisable.

The Exchange represented that the addition of options on Index-Linked Securities will not have any effect on Exchange rules pertaining to position and exercise limits[10] or margin.[11]

Surveillance

The Commission notes that Exchange has represented that it will implement surveillance procedures for options on Index-Linked Securities, including adequate comprehensive surveillance sharing agreements with markets trading in non-U.S. components, as applicable. NYSE Arca further represented that these procedures will be adequate to properly monitor Exchange trading of options on Index-Linked Securities and to deter and detect violations of Exchange rules. This order is based on these representations.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–NYSEArca–2008–57) is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–17211 Filed 7–25–08; 8:45 am]

BILLING CODE 8010–01–P

[6] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 17 CFR 242.600(b)(47).

[10] *See* NYSE Arca Rules 6.8 and 6.9.

[11] *See* NYSE Arca Rule 5.25.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11311 and #11312]

Missouri Disaster Number MO–00030

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1773–DR), dated 06/28/2008.

Incident: Severe Storms and Flooding.

Incident Period: 06/01/2008 and continuing.

Effective Date: 07/18/2008.

Physical Loan Application Deadline Date: 08/27/2008.

EIDL Loan Application Deadline Date: 03/30/2009.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Missouri, dated 06/28/2008 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans):

Andrew, Cass, Greene, Holt, Johnson, Nodaway, Stone, Taney, Vernon, Webster.

Contiguous Counties: (Economic Injury Loans Only):

Missouri: Atchison, Barry, Barton, Bates, Buchanan, Cedar, Christian, Dade, Dallas, Douglas, Henry, Jackson, Laclede, Lafayette, Lawrence, Ozark, Pettis, Polk, Saint Clair, Wright.

Arkansas: Boone, Carroll, Marion.

Iowa: Page, Taylor.

Kansas: Bourbon, Crawford, Doniphan, Johnson, Linn, Miami.

Nebraska: Nemaha, Richardson.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–17201 Filed 7–25–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11337]

Nebraska Disaster #NE–00023

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Nebraska (FEMA–1779–DR), dated 07/18/2008.

Incident: Severe Storms, Straight-line Winds, and Flooding.

Incident Period: 06/27/2008.

Effective Date: 07/18/2008.

Physical Loan Application Deadline Date: 09/16/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 04/20/2009.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 07/18/2008, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Dodge, Douglas, Sarpy, Saunders.

Contiguous Counties (Economic Injury Loans Only)

Nebraska: Burt, Butler, Cass, Colfax, Cumming, Lancaster, Seward, Washington.

Iowa: Mills, Pottawattamie.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage and for economic injury is 11337.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–17203 Filed 7–25–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11327]

Oklahoma Disaster Number OK–00022

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 Oklahoma (FEMA–1775–DR), dated 07/09/2008.

Incident: Severe Storms and Flooding.

Incident Period: 06/03/2008 through 06/20/2008.

Effective Date: 07/18/2008.

Physical Loan Application Deadline Date: 09/08/2008.

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 Oklahoma, dated 07/09/2008, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties:

Choctaw, Nowata.

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. E8–17202 Filed 7–25–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 06/76–0330]

SunTx Fulcrum Fund II—SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that SunTx Fulcrum Fund II—SBIC, L.P., Two Lincoln Centre, 5420 LBJ Freeway, Suite 1000, Dallas, TX 75240, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') rules and regulations (13 CFR 107.730 (2002)). SunTx Fulcrum Fund II—SBIC, L.P. proposes to provide preferred equity security financing to Interface Security Holdings, Inc., 3773 Corporate Center Drive, Earth City, MO 63045. The financing is contemplated to provide the company with the necessary working capital.

The financing is brought within the purview of Sec. 107.730(a)(1) of the Regulations because SunTx Fulcrum Fund, L.P. and SunTx Fulcrum Dutch Investors, L.P., an Associate of SunTx Fulcrum Fund II—SBIC, L.P., own in the aggregate 47% of the outstanding ownership of Interface. Therefore, this transaction is considered a financing of an Associate requiring prior SBA approval.

Notice is hereby given that any interested person may submit written comments on the transaction, within 15 days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: July 9, 2008.

A. Joseph Shepard,

Associate Administrator for Investment.

[FR Doc. E8–17205 Filed 7–25–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time and agenda for the next meeting of the

National Small Business Development Center (SBDC) Advisory Board.

DATES: The meeting will be held on Tuesday, August 19, 2008 at 1 p.m. ET.

ADDRESSES: This meeting will be held via conference call.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), SBA announces the meeting of the National SBDC Advisory Board. This Board provides advice and counsel to the SBA Administrator and Associate Administrator for Small Business Development Centers.

The purpose of this meeting is to discuss the following issues pertaining to the SBDC Advisory Board:

—Introduction of two new board members.
—SBA Update from AA/OSBDC.
—Annual Association of Small Business Development Center (ASBDC) Conference on September 2–5 in Chicago, IL.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however, advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Board must contact Alanna Falcone by Friday, August 15, 2008, by fax or e-mail in order to be placed on the agenda. Alanna Falcone, Program Analyst, 409 Third Street, SW., Washington, DC 20416, Phone 202–619–1612, Fax 202–481–0134, e-mail *alanna.falcone@sba.gov*.

Additionally, if you need accommodations because of a disability or require additional information, please contact Alanna Falcone at the information above.

Cherylyn H. Lebon,

Committee Management Officer.

[FR Doc. E8–17204 Filed 7–25–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending June 27, 2008.

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*).

The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2003–16843 and DOT–OST–2008–0199.

Date Filed: June 24, 2008.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 15, 2008.

Description: Supplement of Aero Services—Executive S.A. to its application for a foreign air carrier permit to allow it to engage in: (i) Charter foreign air transportation of persons, property and mail from any point or points behind any Member State and via intermediate points to any point of points in the United States and beyond; (ii) foreign charter air transportation of persons, property and mail between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (iii) other charters pursuant to prior approval; and transportation authorized by any additional rights granted to European Community carrier in the future.

Docket Number: DOT–OST–1997–2166.

Date Filed: June 25, 2008.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 16, 2008.

Description: Application of Thomas Cook Airlines Scandinavia A/S requesting an amended foreign air carrier permit and exemption authority to conduct: (a) Foreign charter air transportation of persons, property and mail from any point or points behind any Member State of the European Union via any point or points in any Member State and via intermediate points to any point or points in the United States and beyond; (b) foreign charter air transportation of persons, property and mail between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (c) foreign charter cargo air transportation between any point or points in the United States and any other point or points; (d) other charters pursuant to the prior approval; and (e) charter transportation consistent with any future, additional rights that may be granted to foreign air carriers of the Member States of the European Union.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E8–17266 Filed 7–25–08; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Consensus Standards, Light-Sport Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: This notice announces the availability of three new consensus standards and a revision to a previously accepted consensus standard relating to the provisions of the Sport Pilot and Light-Sport Aircraft rule issued July 16, 2004, and effective September 1, 2004. ASTM International Committee F37 on Light Sport Aircraft developed the new and revised standards with Federal Aviation Administration (FAA) participation. By this notice, the FAA finds the new and revised standards acceptable for certification of the specified aircraft under the provisions of the Sport Pilot and Light-Sport Aircraft rule.

DATE: Comments must be received on or before September 26, 2008.

ADDRESSES: Comments may be mailed to: Federal Aviation Administration, Small Airplane Directorate, Programs and Procedures Branch, ACE–114, Attention: Terry Chasteen, Room 301, 901 Locust, Kansas City, Missouri 64106. Comments may also be e-mailed to: *9-ACE-AVR-LSA-Comments@faa.gov*. All comments must be marked: Consensus Standards Comments, and must specify the standard being addressed by ASTM designation and title.

FOR FURTHER INFORMATION CONTACT: Terry Chasteen, Light-Sport Aircraft Program Manager, Programs and Procedures Branch (ACE–114), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4147; e-mail: *terry.chasteen@faa.gov*.

SUPPLEMENTARY INFORMATION: This notice announces the availability of three new consensus standards and a revision to a previously accepted consensus standard relating to the

provisions of the Sport Pilot and Light-Sport Aircraft rule. ASTM International Committee F37 on Light Sport Aircraft developed the new and revised standards. The FAA expects a suitable consensus standard to be reviewed at least every two years. The two-year review cycle will result in a standard revision or reapproval. A standard is issued under a fixed designation (i.e., F2244); the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval. A reapproval indicates a two-year review cycle completed with no technical changes. A superscript epsilon (ε) indicates an editorial change since the last revision or reapproval. A notice of availability (NOA) will only be issued for new or revised standards. Reapproved standards issued with no technical changes or standards issued with editorial changes only (i.e., superscript epsilon (ε)) are considered accepted by the FAA without need for a NOA.

Comments Invited: Interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the consensus standard number and be submitted to the address specified above. All communications received on or before the closing date for comments will be forwarded to ASTM International Committee F37 for consideration. The standard may be changed in light of the comments received. The FAA will address all comments received during the recurring review of the consensus standard and will participate in the consensus standard revision process.

Background: Under the provisions of the Sport Pilot and Light-Sport Aircraft rule, and revised Office of Management and Budget (OMB) Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities'', dated February 10, 1998, industry and the FAA have been working with ASTM International to develop consensus standards for light-sport aircraft. These consensus standards satisfy the FAA's goal for airworthiness certification and a verifiable minimum safety level for light-sport aircraft. Instead of developing airworthiness standards through the rulemaking process, the FAA participates as a member of Committee F37 in developing these standards. The use of the consensus standard process assures government and industry discussion and agreement on appropriate standards for the required level of safety.

Comments on Previous Notices of Availability

In the Notice of Availability (NOA) issued on December 19, 2006, and published in the **Federal Register** on January 3, 2007, the FAA asked for public comments on the new and revised consensus standards accepted by that NOA. The comment period closed on March 5, 2007. No public comments were received regarding the standards accepted by this NOA.

Consensus Standards in This Notice of Availability

The FAA has reviewed the standards presented in this NOA for compliance with the the regulatory requirements of the rule. Any light-sport aircraft, issued a special light-sport airworthiness certificate, which has been designed, manufactured, operated and maintained, in accordance with this and previously accepted ASTM consensus standards, provides the public with the appropriate level of safety established under the regulations. Manufacturers who choose to produce these aircraft and certificate these aircraft under 14 CFR part 21, 21.190 or 21.191 are subject to the applicable consensus standard requirements. The FAA maintains a listing of all accepted standards on the FAA Web site.

The Revised Consensus Standard and Effective Period of Use

The following previously accepted consensus standard has been revised, and this NOA is accepting the later revision. Either the previous revision or the later revision may be used for the initial certification of special light-sport aircraft until January 1, 2009. This overlapping period of time will allow aircraft that have started the initial certification process using the previous revision level to complete that process. After January 1, 2009, manufacturers must use the later revision and must identify the later revision in the Statement of Compliance for initial certification of special light-sport aircraft unless the FAA publishes a specific notification otherwise. The following Consensus Standard may not be used after January 1, 2009:

ASTM Designation F 2245–06, titled: Standard Specification for Design and Performance of a Light Sport Airplane.

The Consensus Standards

The FAA finds the following new and revised consensus standards acceptable for certification of the specified aircraft under the provisions of the Sport Pilot and Light-Sport Aircraft rule. The consensus standards listed below may be used unless the FAA publishes a specific notification otherwise.

a. *ASTM Designation F 2245–07a, titled:* Standard Specification for Design and Performance of a Light Sport Airplane.

b. *ASTM Designation F 2506–07, titled:* Standard Specification for Design and Testing of Fixed-Pitch or Ground Adjustable Light Sport Aircraft Propellers.

c. *ASTM Designation F 2538–07a, titled:* Standard Practice for Design and Manufacture of Reciprocating Compression Ignition Engines for Light Sport Aircraft.

d. *ASTM Designation F 2626–07, titled:* Standard Terminology for Light Sport Aircraft.

Availability

These consensus standards are copyrighted by ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959. Individual reprints of a standard (single or multiple copies, or special compilations and other related technical information) may be obtained by contacting ASTM at this address, or at (610) 832–9585 (phone), (610) 832–9555 (fax), through *service@astm.org* (e-mail), or through the ASTM Web site at *http://www.astm.org*. To inquire about standard content and/or membership or about ASTM International Offices abroad, contact Daniel Schultz, Staff Manager for Committee F37 on Light Sport Aircraft: (610) 832–9716, *dschultz@astm.org*.

Issued in Kansas City, Missouri on July 1, 2008.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–17251 Filed 7–25–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2008–31]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and

participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before August 14, 2008.

ADDRESSES: You may send comments identified by Docket Number FAA–2008–0348, using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kenna Sinclair (425) 227–1556, Transport Airplane Directorate, ANM–113, Federal Aviation Administration, 1601 Lind Avenue, SE., Renton, WA 98055–4056, or Frances Shaver (202) 267–9681, Office of Rulemaking, ARM–204, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2008–0348.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: Sections 25.785(d), 25.807(c)(1), 25.807(c)(5), 25.807(d)(1), 25.809(f)(1), 25.813(b), 25.857(e), and 25.1447(c)(1).

Description of Relief Sought: The Boeing Company requests exemption from the airworthiness standards for transport category airplanes that would allow up to six (6) supernumeraries on a Boeing Model 747–8F airplane to access the main deck cargo compartment for all types of cargo operations, namely: (1) Cargo only, (2) live animals only, and (3) mixed cargo consisting of live animals and regular cargo.

[FR Doc. E8–16983 Filed 7–24–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2008–0137]

Qualification of Drivers; Exemption Applications; Diabetes

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt fifty-six individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective July 28, 2008. The exemptions expire on July 28, 2010.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov*.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19476, Apr. 11, 2000). This statement is also available at *http://Docketsinfo.dot.gov*.

Background

On June 11, 2008, FMCSA published a notice announcing receipt of applications for exemption from the Federal diabetes standard from fifty-six individuals, and requested comments from the public (73 FR 33144). The public comment period closed on July 10, 2008, and no comments were received.

FMCSA has evaluated the eligibility of the fifty-six applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current standard for diabetes in 1970 because several risk studies indicated that diabetic drivers had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The 2003

Notice (68 FR 52442) in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** Notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These fifty-six applicants have had ITDM over a range of 1 to 33 years. These applicants report no hypoglycemic reaction that resulted in loss of consciousness or seizure, that required the assistance of another person, or that resulted in impaired cognitive function without warning symptoms in the past 5 years (with one year of stability following any such episode). In each case, an endocrinologist has verified that the driver has demonstrated willingness to properly monitor and manage his or her diabetes, received education related to diabetes management, and is on a stable insulin regimen. Each driver reported no other disqualifying conditions, including diabetes-related complications. Each meets the vision standard at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the June 11, 2008, **Federal Register** Notice (73 FR 33144). Therefore, they will not be repeated in this notice.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision and reviewed the treating endocrinologist's medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that exempting these applicants from the diabetes standard in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submits to FMCSA a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports to FMCSA within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not they are related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received no comments in this proceeding.

Conclusion

After considering the comments to the docket, and based upon its evaluation of the fifty-six exemption applications, FMCSA exempts, Timothy R. Abraham, Mark A. Arndt, David D. Canady, William M. Camp, Scott A. Cary, Eugene W. Clark, Jr., Jeffrey D. Crabtree, David C. Crawford, David W. Dawley, Adam F. Demeter, Henry D. Dyer, Stephen E. Foltz, Randall A. Ford, Larry A. Fritz, Clayton L. Funk, Bruce A. Gay, Jarret L. Gerber, Frederick G. Gillespie, Jose L. Gonzales, Kevin Gumbrell, Danny E. Helton, Robert G. Hemeon, Marcus L. Jackson, Richard S. Jackson, William J. Jackson, Alan L. Johnson, Nathan S. Kelley, Angela M. King, Scott M. Lowry, Ramon A. Mateo, Robert L. Mills, Jr., Richard Murphy, Edward F. Murray, Peter H. Palen, Jr., Travis L. Ploman, Nicholas W. Pomnitz, Thomas G. Riley, Jr., Melvin D. Robertson, Robert A. Roskamp, Brandon M. Ross, Ulysses A. Santiago, Jr., Jeremy S. Samiec, Patrick D. Schiller, Bruce D. Schmoyer, Joseph E. Sobiech, John J. Sorce, Donald J. Stabler, Ronald L. Stigall, Cory C. Struble, James L. Swedenburg, Jr., Lawrence M. Tanner, Robert D. Tarkington, Richard L. Thistle, Travis A. Udulutch, Joshua C. Webb, and Robert C. Whitney, from the ITDM standard in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: July 18, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8–17190 Filed 7–25–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–99–5578, FMCSA–99–6156, FMCSA–99–6480, FMCSA–01–10578, FMCSA–01–11426, FMCSA–05–22727, FMCSA–05–23099, FMCSA–05–23238, FMCSA–06–23773, FMCSA–06–24015]

Qualification of Drivers; Exemption Renewals; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 24 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has reviewed the comment submitted in response to the previous announcement and concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov*.

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The notice was published on May 12, 2008 (FR 73 27014), and the comment period ended on June 11, 2008.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment was considered and discussed below.

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA's policy to grant exemptions from the FMCSR, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the Agency's reliance on conclusions drawn from the vision waiver program; (3) claims the Agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31136(e) and 31315); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 24 renewal applications, FMCSA renews the Federal vision exemptions for Juan D. Adame, Louis N. Adams, Paul D. Crouch, Thomas G. Danclovic, John M. Doney, Curtis N. Fulbright, Joshua G. Hansen, Daniel W. Henderson, Edward W. Hosier, Burt A. Hughes, Craig T. Jorgensen, Jose A. Lopez, Earl E. Martin, Bobby L. Mashburn, Brian E. Monaghan, William P. Murphy, Roy J. Oltman, Albert K. Remsburg, III, Willard L. Riggle, Robert H. Rogers, George L. Silvia, Darwin J. Thomas, Kenneth E. Walker, and Frankie A. Wilborn.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA.

The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: July 21, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8–17189 Filed 7–25–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–99–5748, FMCSA–99–6480, FMCSA–01–11426, FMCSA–02–11714, FMCSA–05–23099, FMCSA–06–23773]

Qualification of Drivers; Exemption Renewals; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 17 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has reviewed the comment submitted in response to the previous announcement and concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov*.

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The notice was published on May 12, 2008 (FR 73 27017), and the comment period ended on June 11, 2008.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment was considered and discussed below.

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA's policy to grant exemptions from the FMCSR, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the Agency's reliance on conclusions drawn from the vision waiver program; (3) claims the Agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31136(e) and 31315); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 17 renewal applications, FMCSA renews the Federal vision exemptions for Guy M. Alloway, Joe W. Brewer, James D. Coates, Donald D. Dunphy, James W. Ellis, IV., John E. Engstad, David W. Grooms, Walter D. Hague, Jr., David A. Inman, Alfred G. Jeffus, Teddie W. King, Aaron C. Lougher, Lawrence C. Moody, Stanley W. Nunn, Roberto G. Serna, Bobby C. Spencer, and Kevin R. Stoner.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA.

The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: July 21, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8–17191 Filed 7–25–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Notice of Date for Submission of Requests for Confidential Treatment of Certain Early Warning Reporting Data

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice.

SUMMARY: This notice establishes a submission date for those manufacturers that choose to submit requests for confidential treatment of Early Warning Reporting data on incidents involving a death or an injury, property damage claims or light vehicle production to send the requests to NHTSA's Chief Counsel.

DATES: Requests for confidential treatment of previously submitted Early Warning Reporting data on incidents involving a death or an injury, on property damage claims and on light vehicle production must be submitted to NHTSA's Chief Counsel by August 27, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew J. DiMarsico, NHTSA Office of the Chief Counsel, W41–227, 1200 New Jersey Avenue, SE., Washington, DC 20590 (*Telephone*: 202–366–5263) (*Fax*: 202–366–3820).

SUPPLEMENTARY INFORMATION: The Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, which was enacted in 2000, required NHTSA to prescribe rules establishing early warning reporting (EWR) requirements. 49 U.S.C. 30166(m). On July 10, 2002, NHTSA published regulations implementing the early warning reporting provisions. 49 CFR part 579 Subpart C, 67 FR 45822. In general, the EWR regulations require manufacturers of motor vehicles (producing 500 or more vehicles annually), all manufacturers of child restraint systems and manufacturers of tires above a specified volume to report, on a quarterly basis, information on production, incidents involving fatalities and injuries based on claims and notices, claims for property damage, consumer complaints, warranty claims and field reports, and to submit copies of certain field reports. *See* 49 CFR 579.21–26. Manufacturers of motor vehicles that produce less than 500 vehicles annually, and all other equipment manufacturers, do not provide quarterly reports, but are required to report information on incidents involving death(s) based on claims or notices. *See* 49 CFR 579.27. Additionally, manufacturers were required to file initial reports containing historical data. *See* 49 CFR 579.28(c). The EWR rule did not address whether the information submitted by manufacturers would be released to the public.

On July 28, 2003, NHTSA published an appendix to its Confidential Business Information (CBI) rule that addressed the confidentiality of EWR data. *See* 49 CFR part 512 App. C, 68 FR 44209. The rule established class determinations that EWR information on production numbers (except for light vehicles), consumer complaints, warranty claims and field reports (including copies of reports) were confidential. NHTSA subsequently amended the rule to add a class determination that common green tire data are confidential. 69 FR 21409 (April 21, 2004). During the rulemaking, NHTSA declined to adopt a request by commenters that EWR data on deaths and injuries and on property damage claims (collectively, ''EWR claims data'') be accorded confidentiality. Instead, manufacturers could submit individualized requests for confidential treatment of their EWR claims data. If a manufacturer did not submit a request for confidential treatment of its EWR claims data, the agency would be free to disclose it.

Litigation over the provisions in NHTSA's rule on the confidentiality of EWR data was instituted in March of 2004. Public Citizen challenged the class determinations and sought to have them set aside. The Rubber Manufacturers Association (RMA), a trade association that includes tire manufacturers, intervened contending that all EWR information including EWR claims data is exempt from disclosure. This was based on the legal theory that the TREAD Act precluded the disclosure of the data and thus under Exemption 3 of the Freedom of Information Act, 5 U.S.C. 552(b)(3),[1] NHTSA could not release EWR data. In addition, some RMA members submitted requests for confidentiality of EWR claims data, which NHTSA denied. RMA's complaint as an intervenor challenged those denials as well as the rule.

In light of the RMA claim in the lawsuit, NHTSA stayed the processing of requests for confidential treatment of EWR information until the matters in litigation were resolved. The agency further advised manufacturers that until further notice they should not request confidential treatment of EWR information.

In its resolution of the litigation, the District Court issued two opinions. In the first, the Court found that NHTSA had the authority to make the class determinations of confidentiality but had failed to follow proper notice and comment procedures when it did so. It remanded the matter back to NHTSA. *See Public Citizen, Inc.* v. *Mineta,* 427 F.Supp.2d 7 (D.D.C. 2006). In a subsequent decision, the Court rejected RMA's contention that the TREAD Act precluded NHTSA from releasing EWR data. *See Public Citizen, Inc.* v. *Mineta,* 444 F.Supp.2d 12 (D.D.C. 2006). RMA appealed. On July 22, 2008, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the judgment of the District Court on RMA's claim that the TREAD Act precluded the release of all EWR data. *Public Citizen, Inc.,* v. *Rubber Manufacturers Association,* No. 06–5304, _ F.3d _ (DC Cir. 2008).

While RMA's appeal was pending, in response to the District Court's remand of the 2003 rule, NHTSA published a rule on the confidentiality of EWR data. *See* 72 FR 59434 (Oct. 19, 2007). The 2007 rule contained class determinations that EWR information on production numbers (except for light vehicles), consumer complaints, warranty claims, field reports (including copies of field reports) and common green tire data are confidential. Significantly, under the 2007 rule, EWR claims data is not covered by any class determinations. Accordingly, manufacturers seeking confidential treatment for EWR claims data may do so by submitting individual requests for

[1] Exemption 3 incorporates the various nondisclosure provisions contained in other Federal statutes. It provides for the withholding of information specifically exempted from disclosure by statute, provided that such statute ''(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.'' 5 U.S.C. 552(b)(3).

confidential treatment pursuant to 49 CFR part 512.

This notice addresses the timing of submission of requests for confidentiality of EWR claims data and production data for light vehicles. The agency's EWR CBI rule did not resolve the confidentiality of those data. Instead, as noted above, this was left to individual requests for confidentiality, if manufacturers chose to submit them. And, if a manufacturer did not submit a request covering EWR claims data or, for light vehicles, production data, NHTSA was free to release those data submitted by the manufacturer. However, NHTSA issued an administrative stay of the release of the EWR claims data pending the resolution of the litigation and advised manufacturers not to submit requests for confidentiality while the stay was in effect. In view of the decision and judgment by the Court of Appeals, the stay is no longer operative.

NHTSA is providing manufacturers a limited opportunity to request confidentiality for previously submitted EWR claims data (information on incidents involving death or injury or property damage claims) and, for light vehicles, production data. There are two general groups of EWR data at issue. The first is EWR claims data and light vehicle production data previously submitted to the agency pursuant to the EWR rule. NHTSA's naming convention rules for the submission of electronic EWR quarterly reports require manufacturers to denominate their EWR submissions with a ''C'' in the Confidentiality Request Identifier to indicate that the manufacturer contends that the EWR claims data and/or light vehicle production data is confidential. However, the ''C'' in the file naming convention alone does not confer confidential treatment for EWR claims data and light vehicle production data. Manufacturers seeking confidential treatment for this information must submit a request pursuant to 49 CFR part 512 to the Chief Counsel of NHTSA by mail, express courier (e.g., Fed Ex, UPS, DHL), or hand delivery, which is due by August 27, 2008. A request for confidential treatment may be made even if an EWR report was submitted without the ''C'' designation. If a request for confidential treatment is not submitted by the above date, the agency will be free to disclose the data regardless if a ''C'' is included in the file name of the EWR report.

The second group of EWR data at issue is EWR claims data and light vehicle production data submitted in the future. Consistent with 49 CFR part 512, manufacturers choosing to request confidential treatment for such data are required to submit individual requests for confidential treatment to NHTSA's Chief Counsel in connection with their electronic submissions of EWR quarterly reports. While quarterly EWR reports are submitted electronically and require a ''C'' in the file naming convention to indicate a request for confidential treatment, an individualized request under 49 CFR part 512 must also be sent by mail, express courier or hand delivery to the Chief Counsel of NHTSA.

Issued on: July 23, 2008.

Lloyd S. Guerci,

Assistant Chief Counsel for Litigation and Enforcement.

[FR Doc. E8–17237 Filed 7–25–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 269X)]; [STB Docket No. AB–486 (Sub-No. 4X)]

Union Pacific Railroad Company—Abandonment Exemption—in Osborne and Rooks Counties, KS; Kyle Railroad Company—Discontinuance of Service Exemption—in Osborne and Rooks Counties, KS

Union Pacific Railroad Company (UP) and Kyle Railroad Company (Kyle) (collectively, applicants) have jointly filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* for UP to abandon, and for Kyle to discontinue service over, a 30.13-mile portion of a line of railroad known as the Solomon Branch Line, extending between west of Osborne, KS (milepost 550.5), and west of Stockton, KS, at the end of the line (milepost 580.63), in Osborne and Rooks Counties, KS.[1] The line traverses United States Postal Service Zip Codes 67473, 67474, 67623, 67675, and 67669.

Applicants have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line 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 (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 these exemptions, any employee adversely affected by the abandonment or discontinuance 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, these exemptions will be effective on August 27, 2008, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 7, 2008. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 18, 2008,[4] 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 applicants' representatives: (1) Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Room 1920, Chicago, IL 60606; and (2) Louis E. Gitomer, Esq., Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemptions are void *ab initio.*

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[1] Applicants originally filed their verified notice of exemption on July 8, 2008, but filed a supplement to their notice on July 11, 2008, certifying applicants' compliance with the notice requirements of 49 CFR 1105.11.

[2] 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 exemptions' 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 exemptions' effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. The filing fee for an OFA increased from $1,300 to $1,500, effective July 18, 2008. *See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2008 Update,* STB Ex Parte No. 542 (Sub-No. 15) (STB served June 18, 2008), which amends 49 CFR Part 1002 of the *Code of Federal Regulations.*

[4] Applicants note, however, that they do not believe that the line of railroad is suitable for other public purposes.

Applicants have filed a joint combined environmental and historic report, which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by August 1, 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), UP 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 UP's filing of a notice of consummation by July 28, 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.*

Decided: July 18, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–16872 Filed 7–25–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 270X); STB Docket No. AB–486 (Sub–No. 5X)]

Union Pacific Railroad Company—Abandonment Exemption—in Osborne and Smith Counties, KS; Kyle Railroad Company—Discontinuance of Service Exemption—in Osborne and Smith Counties, KS

Union Pacific Railroad Company (UP) and Kyle Railroad Company (Kyle) (collectively, applicants) have jointly filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* for UP to abandon, and for Kyle to discontinue service over, a 12.4-mile portion of a line of railroad known as the Lenora Branch Line, extending between milepost 540.3, west of Downs, KS, and milepost 552.7, west of Portis, KS, at the end of the line, in Osborne and Smith Counties.[1] The line traverses United States Postal Service Zip Codes 67437, 67474, and 67638.

Applicants have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line 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 (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 these exemptions, any employee adversely affected by the abandonment or discontinuance 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, these exemptions will be effective on August 27, 2008, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 7, 2008. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 18, 2008,[4] 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 applicants' representatives: (1) Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Room 1920, Chicago, IL 60606; and (2) Louis E. Gitomer, Esq., Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemptions are void *ab initio.*

Applicants have filed a joint combined environmental and historic report, which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by August 1, 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), UP 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 UP's filing of a notice of consummation by July 28, 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.*

Decided: July 21, 2008.

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[1] Applicants originally filed their verified notice of exemption on July 8, 2008, but filed a supplement to their notice on July 11, 2008, certifying applicants' compliance with the notice requirements of 49 CFR 1105.11.

[2] 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 exemptions' 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 exemptions' effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. The filing fee for an OFA increased from $1,300 to $1,500, effective July 18, 2008. *See Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—2008 Update,* STB Ex Parte No. 542 (Sub–No. 15) (STB served June 18, 2008), which amends 49 CFR Part 1002 of the Code of Federal Regulations.

[4] Applicants note, however, that they do not believe that the line of railroad is suitable for other public purposes. Applicants also state that, if the abandonment is authorized, they may reclassify 2.7 miles of the line between milepost 540.3 and milepost 543.0 as side track for storage and staging.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–16953 Filed 7–25–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 262X)]

Union Pacific Railroad Company—Abandonment Exemption—in Fulton and Peoria Counties, IL

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 24.7-mile line of railroad on UP's Elm Industrial Lead from milepost 461.5, near Middle Grove, to milepost 486.2, at Molitor Junction, in Fulton and Peoria Counties, IL. The line traverses United States Postal Service Zip Codes 61529, 61531, 61536, 61569 and 61604.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (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 (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 of 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 August 22, 2008, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 4, 2008. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 12, 2008, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to UP's representative: Gabriel S. Meyer, Assistant General Attorney, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

UP has filed environmental and historic reports which address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by July 25, 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), UP 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 UP's filing of a notice of consummation by July 23, 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*.

Decided: July 11, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–17140 Filed 7–25–08; 8:45 am]

BILLING CODE 4915–01–P

[1] 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.

[2] Each OFA must be accompanied by the filing fee, which will be $1,500 on the date of service and publication of this notice. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

United States Mint

Notification of American Eagle Platinum Proof Coin Price Increases

SUMMARY: The United States Mint is adjusting prices for its American Eagle Platinum Proof Coins.

Pursuant to the authority that 31 U.S.C. 5111(a) and 5112(k) grant the Secretary of the Treasury to mint and issue platinum coins, and to prepare and distribute numismatic items, the United States Mint mints and issues 2008 American Eagle Platinum Proof Coins in four denominations with the following weights: One-ounce, one-half ounce, one-quarter ounce, one-tenth ounce. The United States Mint also produces American Eagle Platinum Proof four-coin sets that contain one coin of each denomination. In accordance with 31 U.S.C. 9701(b)(2)(B), the United States Mint is changing the price of these coins to reflect increases in the market price of platinum.

Effective July 23, 2008, the United States Mint will commence selling the following 2008 American Eagle Proof Coins according to the following price schedule:

Description	Price
American Eagle Platinum Proof Coins:	
One-ounce platinum coin	$2,509.95
One-half ounce platinum coin	1,279.95
One-quarter ounce platinum coin	664.95
One-tenth ounce platinum coin	279.95
Four-coin platinum set	4,589.95

FOR FURTHER INFORMATION CONTACT: Gloria C. Eskridge, Associate Director for Sales and Marketing, United States Mint, 801 Ninth Street, NW., Washington, DC 20220, or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Dated: July 23, 2008.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. E8–17231 Filed 7–25–08; 8:45 am]

BILLING CODE 4810–02–P

Federal Register

Monday,
July 28, 2008

Part II

The President

Executive Order 13468—2008
Amendments to the Manual for Courts-Martial, United States

Federal Register
Vol. 73, No. 145
Monday, July 28, 2008

Presidential Documents

Title 3—

The President

Executive Order 13468 of July 24, 2008

2008 Amendments to the Manual for Courts-Martial, United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including chapter 47 of title 10, United States Code (Uniform Code of Military Justice, 10 U.S.C. 801–946), and in order to prescribe amendments to the Manual for Courts-Martial, United States, prescribed by Executive Order 12473 of April 13, 1984, as amended, it is hereby ordered as follows:

Section 1. Parts II and IV of the Manual for Courts- Martial, United States, are amended as described in the Annex attached and made a part of this order.

Sec. 2. These amendments shall take effect 30 days from the date of this order.

(a) Nothing in these amendments shall be construed to make punishable any act done or omitted prior to the effective date of this order that was not punishable when done or omitted.

(b) Nothing in these amendments shall be construed to invalidate any nonjudicial punishment proceedings, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to the effective date of this order, and any such nonjudicial punishment, restraint, investigation, referral of charges, trial, or other action may proceed in the same manner and with the same effect as if these amendments had not been prescribed.

THE WHITE HOUSE,
July 24, 2008.

Billing code 3195–01–P

ANNEX

Section 1. Part II of the Manual for Courts-Martial, United States, is amended as follows:

(a) R.C.M. 103 is amended by adding the following new subparagraph (20) and re-designating the current subparagraph (20) as subparagraph (21):

"(20) "Writing" includes printing and typewriting and reproductions of visual symbols by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation."

(b) R.C.M. 405(h)(3) is amended to read as follows:

"(3) *Access by spectators*. Access by spectators to all or part of the proceedings may be restricted or foreclosed in the discretion of the commander who directed the investigation or the investigating officer. Article 32 investigations are public hearings and should remain open to the public whenever possible. When an overriding interest exists that outweighs the value of an open investigation, the hearing may be closed to spectators. Any closure must be narrowly tailored to achieve the overriding interest that justified the closure. Commanders or investigating officers must conclude that no lesser methods short of closing the Article 32 investigation can be used to protect the overriding interest in the case. Commanders or investigating officers must conduct a case-by-case, witness-by-witness, circumstance-by-circumstance analysis of whether closure is necessary. If a commander or investigating officer believes closing the Article 32 investigation is necessary, the commander or investigating officer must make specific findings of fact in writing that

support the closure. The written findings of fact must be included in the Article 32 investigating officer's report. Examples of overriding interests may include: preventing psychological harm or trauma to a child witness or an alleged victim of a sexual crime, protecting the safety of a witness or alleged victim, protecting classified material, and receiving evidence where a witness is incapable of testifying in an open setting."

(c) R.C.M. 1103(b)(2)(B) is amended to read as follows:

"(B) *Verbatim transcript required.* Except as otherwise provided in subsection (j) of this rule, the record of trial shall include a verbatim transcript of all sessions except sessions closed for deliberations and voting when:"

(d) R.C.M. 1103(e) is amended to read as follows:

"(e) *Acquittal; courts-martial resulting in findings of not guilty only by reason of lack of mental responsibility; termination prior to findings; termination after findings.* Notwithstanding subsections (b), (c), and (d) of this rule, if proceedings resulted in an acquittal of all charges and specifications or in a finding of not guilty only by reason of lack of mental responsibility of all charges and specifications, or if the proceedings were terminated by withdrawal, mistrial, or dismissal before findings, or if the proceedings were terminated after findings by approval of an administrative discharge in lieu of court-martial, the record may consist of the original charge sheet, a copy of the convening order and amending orders (if any), and sufficient information to establish jurisdiction over the accused and the offenses (if not shown on the charge sheet). The convening authority or higher authority may prescribe additional requirements."

(e) R.C.M. 1103(g)(1)(A) is amended to read as follows:

"(A) *In general.* In general and special courts-martial that require a verbatim transcript under subsections (b) or (c) of this rule and are subject to a review by a Court of Criminal Appeals under Article 66, the trial counsel shall cause to be prepared an original record of trial."

(f) R.C.M. 1103(j)(2) is amended to read as follows:

"(2) *Preparation of written record.* When the court-martial, or any part of it, is recorded by videotape, audiotape, or similar material under subsection (j)(1) of this rule, a transcript or summary in writing (as defined in R.C.M. 103), as required in subsection (b)(2)(A), (b)(2)(B), (b)(2)(C), or (c) of this rule, as appropriate, shall be prepared in accordance with this rule and R.C.M. 1104 before the record is forwarded under R.C.M. 1104(e), unless military exigencies prevent transcription."

(g) R.C.M. 1104(a)(1) is amended to read as follows:

"(1) *In general.* A record is authenticated by the signature of a person specified in this rule who thereby declares that the record accurately reports the proceedings. An electronic record of trial may be authenticated with the electronic signature of the military judge or other authorized person. Service of an authenticated electronic copy of the record of trial with a means to review the record of trial satisfies the requirement of service under R.C.M. 1105(c) and 1305(d). No person may be required to authenticate a record of trial if that person is not satisfied that it accurately reports the proceedings."

(h) R.C.M. 1106(d) is amended to read as follows:

"(d) *Form and content of recommendation.*

(1) The purpose of the recommendation of the staff judge advocate or legal officer is to assist the convening authority to decide what action to take on the sentence in the exercise of command prerogative. The staff judge advocate or legal officer shall use the record of trial in the preparation of the recommendation, and may also use the personnel records of the accused or other matters in advising the convening authority whether clemency is warranted.

(2) *Form*. The recommendation of the staff judge advocate or legal officer shall be a concise, written communication.

(3) *Required contents*. The staff judge advocate or legal advisor shall provide the convening authority with a copy of the report of results of trial, setting forth the findings, sentence, and confinement credit to be applied, a copy or summary of the pretrial agreement, if any, any recommendation for clemency by the sentencing authority, made in conjunction with the announced sentence, and the staff judge advocate's concise recommendation."

(i) R.C.M. 1111(a)(1) is amended by inserting the following sentence at the end of the rule:

"Forwarding of an authenticated electronic copy of the record of trial satisfies the requirements under this rule."

(j) R.C.M. 1113 is amended by adding the following new subparagraph (d) and re-designating the current subparagraph (d) as subparagraph (e):

"(d) *Self-executing punishments*. Under regulations prescribed by the Secretary concerned, a dishonorable or bad conduct discharge that has been approved by an appropriate convening authority may be self-executing after final judgment at such time as:

(1) The accused has received a sentence of no confinement or has completed all confinement;

(2) The accused has been placed on excess or appellate leave; and,

(3) The appropriate official has certified that the accused's case is final. Upon completion of the certification, the official shall forward the certification to the accused's personnel office for preparation of a final discharge order and certificate."

(k) R.C.M. 1114(a) is amended by inserting the following as subsection (a)(4):

"(4) *Self-executing final orders*. An order promulgating a self-executing dishonorable or bad conduct discharge need not be issued. The original action by a convening authority approving a discharge and certification by the appropriate official that the case is final may be forwarded to the accused's personnel office for preparation of a discharge order and certificate."

(l) R.C.M. 1305(b) is amended by changing the first sentence to read as follows:

"(b) *Contents*. The summary court-martial shall prepare a written record of trial, which shall include:"

(m) R.C.M. 1305(c) is amended to read as follows:

"(c) *Authentication*. The summary court-martial shall authenticate the record by signing the record of trial. An electronic record of trial may be authenticated with the electronic signature of the summary court-martial."

(n) R.C.M. 1305(d)(1)(A) is amended to read as follows:

"(A) *Service*. The summary court-martial shall cause a copy of the record of trial to be served on the accused as soon as it is authenticated. Service of an authenticated electronic

copy of the record of trial with a means to review the record of trial satisfies the requirement of service under this rule."

(o) R.C.M. 1306(b)(3) is amended to read as follows:

"(3) *Signature*. The action on the record of trial shall be signed by the convening authority. The action on an electronic record of trial may be signed with the electronic signature of the convening authority."

Sec. 2. Part IV of the Manual for Courts-Martial, United States, is amended as follows:

(a) Paragraph 14, Article 90, Assaulting or willfully disobeying superior commissioned officer, paragraph c.(2)(g) is amended to read as follows:

"c.(2)(g) *Time for compliance*. When an order requires immediate compliance, an accused's declared intent not to obey and the failure to make any move to comply constitutes disobedience. Immediate compliance is required for any order that does not explicitly or implicitly indicate that delayed compliance is authorized or directed. If an order requires performance in the future, an accused's present statement of intention to disobey the order does not constitute disobedience of that order, although carrying out that intention may."

(b) Paragraph 44, Article 119, Manslaughter, paragraph b. is amended to read as follows:

"b. *Elements*.

(1) Voluntary manslaughter.

(a) That a certain named or described person is dead;

(b) That the death resulted from the act or omission of the accused;

(c) That the killing was unlawful; and

(d) That, at the time of the killing, the accused had the intent to kill or inflict great bodily harm upon the person killed.

(Note: Add the following if applicable)

(e) That the person killed was a child under the age of 16 years.

(2) Involuntary manslaughter.

(a) That a certain named or described person is dead;

(b) That the death resulted from the act or omission of the accused;

(c) That the killing was unlawful; and

(d) That this act or omission of the accused constituted culpable negligence, or occurred while the accused was perpetrating or attempting to perpetrate an offense directly affecting the person other than burglary, sodomy, rape, robbery, or aggravated arson.

(Note: Add the following if applicable)

(e) That the person killed was a child under the age of 16 years."

(c) Paragraph 44, Article 119, Manslaughter, paragraph c.(1)(c) is added following paragraph c.(1)(b):

"(c) *When committed upon a child under 16 years of age.* The maximum punishment is increased when voluntary manslaughter is committed upon a child under 16 years of age. The accused's knowledge that the child was under 16 years of age at the time of the offense is not required for the increased maximum punishment."

(d) Paragraph 44, Article 119, Manslaughter, paragraph c.(2)(c) is added following paragraph c.(2)(b):

"(c) *When committed upon a child under 16 years of age.*

The maximum punishment is increased when involuntary manslaughter is committed upon a child under 16 years of age. The accused's knowledge that the child was under 16 years of age at the time of the offense is not required for the increased maximum punishment."

(e) Paragraph 44, Article 119, Manslaughter, paragraph e.(3) is added following paragraph e.(2):

"(3) *Voluntary manslaughter of a child under 16 years of age*. Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years."

(f) Paragraph 44, Article 119, Manslaughter, paragraph e.(4) is added following paragraph e.(3):

"(4) *Involuntary manslaughter of a child under 16 years of age*. Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 15 years."

(g) Paragraph 44, Article 119, Manslaughter, paragraph f. is amended to read as follows:

"f. *Sample specifications*.

(1) *Voluntary manslaughter*.

In that _____ (personal jurisdiction data), did, (at/on board - location) (subject matter jurisdiction data, if required), on or about _____, willfully and unlawfully kill _____, (a child under 16 years of age) by _____ him/her (in) (on) the _____ with a _____.

(2) *Involuntary manslaughter*.

In that _____ (personal jurisdiction data), did, (at/on board location) (subject matter jurisdiction data, if required), on or about _____, (by culpable negligence) (while (perpetrating) (attempting to perpetrate) an offense

directly affecting the person of _____, to wit:

(maiming) (a battery) (_____)) unlawfully kill

_____ (a child under 16 years of age) by _____

him/her (in)(on) the _____ with a _____."

Changes to the Discussion accompanying the Manual for Courts-Martial, United States

(a) The following Discussion is added immediately after R.C.M. 103(20):

"The definition of "writing" includes letters, words, or numbers set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or any other form of data compilation. This section makes it clear that computers and other modern reproduction systems are included in this definition, and consistent with the definition of "writing" in Military Rule of Evidence 1001. The definition is comprehensive, covering all forms of writing or recording of words or word-substitutes."

(b) The Discussion immediately following R.C.M. 1103(g)(1)(A) is amended to read as follows:

"An original record of trial includes any record of the proceedings recorded in a form that satisfies the definition of a "writing" in R.C.M. 103. Any requirement to prepare a printed record of trial pursuant to this rule, either in lieu of or in addition to a record of trial recorded or compiled in some other format, including electronic or digital formats, is subject to service regulation."

Changes to Appendix 11, Forms of Sentences

(a) a. is amended to read as follows:

"a. *Announcement of sentence*

See R.C.M. 1007

In announcing the sentence, the president or, in cases tried by military judge alone, the military judge should announce:

"(Name of accused), this court-martial sentences you ."

The sentence should now be announced following one of the forms contained in *b* below, or any necessary modification or combination thereof. Each of the forms of punishment prescribed in b are separate, that is, the adjudging of one form of punishment is not contingent upon any other punishment also being adjudged. The forms in b, however, may be combined and modified so long as the punishments adjudged is not forbidden by the code and does not exceed the maximum authorized by this Manual (*see* R.C.M. 1003 and Part IV) in the particular case being tried. In announcing a sentence consisting of combined punishments, the president or military judge may, for example, state:

"To forfeit all pay and allowances, to be reduced to Private, E-1, to be confined for one year, and to be dishonorably discharged from the service."

"To forfeit $350.00 pay per month for six months, to be confined for six months, and to be discharged from the service with a bad conduct discharge."

"To forfeit all pay and allowances, to be confined for one year and to be dismissed from the service."

"To forfeit $250.00 pay per month for one month, and to perform hard labor without confinement for one month.""

Changes to Appendix 12, Maximum Punishment Chart

Appendix 12, the Maximum Punishment Chart, is amended as follows:

(a) in the item relating to Article 119, by inserting after the maximum punishment for involuntary manslaughter:

"Voluntary manslaughter of a child under the age of 16 years

DD, BCD 20 yrs. Total

Involuntary manslaughter of a child under the age of 16 years

DD, BCD 15 yrs. Total"

Changes to Appendix 22, Analysis of the Military Rules of Evidence

(a) Amend the Analysis accompanying Mil. R. Evid. 801(d)(1)(B) to read as follows:

"Rule 801(d)(1)(B) makes admissible as substantive evidence on the merits a statement consistent with the in-court testimony of the witness and "offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive." Unlike Rule 801(d)(1)(A), the earlier consistent statement need not have been made under oath or at any type of proceeding. On its face, the Rule does not require that the consistent statement offered have been made prior to the time the improper influence or motive arose or prior to the alleged recent fabrication. Notwithstanding this, the Supreme Court has read such a requirement into the rule. *Tome v. United States*, 513 U.S. 150 (1995); *see also United States v. Allison*, 49 M.J. 54 (C.A.A.F. 1998). The limitation does not, however, prevent admission of a consistent statement made after an inconsistent statement but before the improper influence or motive arose. *United States v. Scholle*, 553 F.2d 1109 (8th Cir. 1977). Rule 801(d)(1)(B) provides a possible means to admit evidence of fresh complaint in prosecution of sexual offenses. Although limited to circumstances in which there is a charge, for example, of recent fabrication, the Rule, when applicable, would permit not only fact of fresh complaint, as is presently possible, but also the entire portion of the consistent statement."

[FR Doc. 08–1472

Filed 07–25–08; 9:02 am]

Billing code 5000–04–C

Reader Aids

Federal Register

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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H.R. 3403/P.L. 110–283

New and Emerging Technologies 911 Improvement Act of 2008 (July 23, 2008; 122 Stat. 2620)

H.R. 3712/P.L. 110–284

To designate the United States courthouse located at 1716 Spielbusch Avenue in Toledo, Ohio, as the "James M. Ashley and Thomas W.L. Ashley United States Courthouse". (July 23, 2008; 122 Stat. 2627)

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Title	Stock Number	Price	Revision Date
1	(869–064–00001–7)	5.00	[4] Jan. 1, 2008
2	(869–064–00002–5)	8.00	Jan. 1, 2008
3 (2006 Compilation and Parts 100 and 102)	(869–064–00003–3)	35.00	[1] Jan. 1, 2008
4	(869–064–00004–1)	13.00	Jan. 1, 2008
5 Parts:			
1–699	(869–064–00005–0)	63.00	Jan. 1, 2008
700–1199	(869–064–00006–8)	53.00	Jan. 1, 2008
1200–End	(869–064–00007–6)	64.00	Jan. 1, 2008
6	(869–064–00008–4)	13.50	Jan. 1, 2008
7 Parts:			
1–26	(869–064–00009–2)	47.00	Jan. 1, 2008
27–52	(869–064–00010–6)	52.00	Jan. 1, 2008
53–209	(869–064–00011–4)	40.00	Jan. 1, 2008
210–299	(869–064–00012–2)	65.00	Jan. 1, 2008
300–399	(869–064–00013–1)	49.00	Jan. 1, 2008
400–699	(869–064–00014–9)	45.00	Jan. 1, 2008
700–899	(869–064–00015–7)	46.00	Jan. 1, 2008
900–999	(869–064–00016–5)	63.00	Jan. 1, 2008
1000–1199	(869–064–00017–3)	22.00	Jan. 1, 2008
1200–1599	(869–064–00018–1)	64.00	Jan. 1, 2008
1600–1899	(869–064–00019–0)	67.00	Jan. 1, 2008
1900–1939	(869–064–00020–3)	31.00	Jan. 1, 2008
1940–1949	(869–064–00021–1)	50.00	Jan. 1, 2008
1950–1999	(869–064–00022–0)	49.00	Jan. 1, 2008
2000–End	(869–064–00023–8)	53.00	Jan. 1, 2008
8	(869–064–00024–6)	66.00	Jan. 1, 2008
9 Parts:			
1–199	(869–064–00025–4)	64.00	Jan. 1, 2008
200–End	(869–064–00026–2)	61.00	Jan. 1, 2008
10 Parts:			
1–50	(869–064–00027–1)	64.00	Jan. 1, 2008
51–199	(869–064–00028–9)	61.00	Jan. 1, 2008
200–499	(869–064–00029–7)	46.00	Jan. 1, 2008
500–End	(869–064–00030–1)	65.00	Jan. 1, 2008
11	(869–064–00031–9)	44.00	Jan. 1, 2008
12 Parts:			
1–199	(869–064–00032–7)	37.00	Jan. 1, 2008
200–219	(869–064–00033–5)	40.00	Jan. 1, 2008
220–299	(869–064–00034–3)	64.00	Jan. 1, 2008
300–499	(869–064–00035–1)	47.00	Jan. 1, 2008
500–599	(869–064–00036–0)	42.00	Jan. 1, 2008
600–899	(869–064–00037–8)	59.00	Jan. 1, 2008
900–End	(869–064–00038–6)	53.00	Jan. 1, 2008
13	(869–064–00039–4)	58.00	Jan. 1, 2008
14 Parts:			
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60–139	(869–064–00041–6)	61.00	Jan. 1, 2008
140–199	(869–064–00042–4)	33.00	Jan. 1, 2008
200–1199	(869–064–00043–2)	53.00	Jan. 1, 2008
1200–End	(869–064–00044–1)	48.00	Jan. 1, 2008
15 Parts:			
0–299	(869–064–00045–9)	43.00	Jan. 1, 2008
300–799	(869–064–00046–7)	63.00	Jan. 1, 2008
800–End	(869–064–00047–5)	45.00	Jan. 1, 2008
16 Parts:			
0–999	(869–064–00048–3)	53.00	Jan. 1, 2008
1000–End	(869–064–00049–1)	63.00	Jan. 1, 2008
17 Parts:			
1–199	(869–064–00051–3)	53.00	Apr. 1, 2008
200–239	(869–064–00052–1)	63.00	Apr. 1, 2008
240–End	(869–064–00053–0)	65.00	Apr. 1, 2008
18 Parts:			
1–399	(869–064–00054–8)	65.00	Apr. 1, 2008
400–End	(869–064–00055–6)	29.00	Apr. 1, 2008
19 Parts:			
1–140	(869–064–00056–4)	64.00	Apr. 1, 2008
141–199	(869–064–00057–2)	61.00	Apr. 1, 2008
200–End	(869–064–00058–1)	34.00	Apr. 1, 2008
20 Parts:			
1–399	(869–064–00059–9)	53.00	Apr. 1, 2008
400–499	(869–064–00060–2)	67.00	Apr. 1, 2008
500–End	(869–064–00061–1)	66.00	Apr. 1, 2008
21 Parts:			
1–99	(869–064–00062–9)	43.00	Apr. 1, 2008
*100–169	(869–064–00063–7)	52.00	Apr. 1, 2008
170–199	(869–064–00064–5)	53.00	Apr. 1, 2008
200–299	(869–064–00065–3)	20.00	Apr. 1, 2008
300–499	(869–064–00066–1)	33.00	Apr. 1, 2008
500–599	(869–064–00067–0)	50.00	Apr. 1, 2008
600–799	(869–064–00068–8)	20.00	Apr. 1, 2008
800–1299	(869–064–00069–6)	63.00	Apr. 1, 2008
1300–End	(869–064–00070–0)	28.00	Apr. 1, 2008
22 Parts:			
1–299	(869–064–00071–8)	66.00	Apr. 1, 2008
300–End	(869–064–00072–6)	48.00	Apr. 1, 2008
23	(869–064–00073–4)	48.00	Apr. 1, 2008
24 Parts:			
0–199	(869–064–00074–2)	63.00	Apr. 1, 2008
200–499	(869–064–00075–1)	53.00	Apr. 1, 2008
500–699	(869–064–00076–9)	33.00	Apr. 1, 2008
700–1699	(869–064–00077–7)	64.00	Apr. 1, 2008
1700–End	(869–064–00078–5)	33.00	Apr. 1, 2008
***25**	(869–064–00079–3)	67.00	Apr. 1, 2008
26 Parts:			
§§ 1.0–1–1.60	(869–064–00080–7)	52.00	Apr. 1, 2008
§§ 1.61–1.169	(869–064–00081–5)	66.00	Apr. 1, 2008
*§§ 1.170–1.300	(869–064–00082–3)	63.00	Apr. 1, 2008
§§ 1.301–1.400	(869–064–00083–1)	50.00	Apr. 1, 2008
§§ 1.401–1.440	(869–064–00084–0)	59.00	Apr. 1, 2008
§§ 1.441–1.500	(869–064–00085–8)	61.00	Apr. 1, 2008
§§ 1.501–1.640	(869–064–00086–6)	52.00	Apr. 1, 2008
§§ 1.641–1.850	(869–064–00087–4)	64.00	Apr. 1, 2008
§§ 1.851–1.907	(869–064–00088–2)	64.00	Apr. 1, 2008
§§ 1.908–1.1000	(869–064–00089–1)	63.00	Apr. 1, 2008
§§ 1.1001–1.1400	(869–064–00090–4)	64.00	Apr. 1, 2008
§§ 1.1401–1.1550	(869–064–00091–2)	61.00	Apr. 1, 2008
§§ 1.1551–End	(869–064–00092–1)	53.00	Apr. 1, 2008
2–29	(869–064–00093–9)	63.00	Apr. 1, 2008
30–39	(869–064–00094–7)	44.00	Apr. 1, 2008
40–49	(869–064–00095–5)	31.00	[6] Apr. 1, 2008
50–299	(869–064–00096–3)	45.00	Apr. 1, 2008

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300–499	(869–064–00097–1)	64.00	Apr. 1, 2008
*500–599	(869–064–00098–0)	12.00	[5] Apr. 1, 2008
600–End	(869–064–00099–8)	20.00	Apr. 1, 2008
27 Parts:			
1–39	(869–064–00100–5)	35.00	Apr. 1, 2008
40–399	(869–064–00101–3)	67.00	Apr. 1, 2008
400–End	(869–064–00102–1)	21.00	Apr. 1, 2008
28 Parts:			
0–42	(869–062–00103–7)	61.00	July 1, 2007
43–End	(869–062–00104–5)	60.00	July 1, 2007
29 Parts:			
0–99	(869–062–00105–3)	50.00	[7] July 1, 2007
100–499	(869–062–00106–1)	23.00	July 1, 2007
500–899	(869–062–00107–0)	61.00	[7] July 1, 2007
900–1899	(869–062–00108–8)	36.00	July 1, 2007
1900–1910 (§§ 1900 to 1910.999)	(869–062–00109–6)	61.00	July 1, 2007
1910 (§§ 1910.1000 to end)	(869–062–00110–0)	46.00	July 1, 2007
1911–1925	(869–062–00111–8)	30.00	July 1, 2007
1926	(869–062–00112–6)	50.00	July 1, 2007
1927–End	(869–062–00113–4)	62.00	July 1, 2007
30 Parts:			
1–199	(869–062–00114–2)	57.00	July 1, 2007
200–699	(869–062–00115–1)	50.00	July 1, 2007
700–End	(869–062–00116–9)	58.00	July 1, 2007
31 Parts:			
0–199	(869–062–00117–7)	41.00	July 1, 2007
200–499	(869–062–00118–5)	46.00	July 1, 2007
500–End	(869–062–00119–3)	62.00	July 1, 2007
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–062–00120–7)	61.00	July 1, 2007
191–399	(869–062–00121–5)	63.00	July 1, 2007
400–629	(869–062–00122–3)	61.00	July 1, 2007
630–699	(869–062–00123–1)	37.00	July 1, 2007
700–799	(869–062–00124–0)	46.00	July 1, 2007
800–End	(869–062–00125–8)	47.00	July 1, 2007
33 Parts:			
1–124	(869–062–00126–6)	57.00	July 1, 2007
125–199	(869–062–00127–4)	61.00	July 1, 2007
200–End	(869–062–00128–2)	57.00	July 1, 2007
34 Parts:			
1–299	(869–062–00129–1)	50.00	July 1, 2007
300–399	(869–062–00130–4)	40.00	July 1, 2007
400–End & 35	(869–062–00131–2)	61.00	July 1, 2007
36 Parts:			
1–199	(869–062–00132–1)	37.00	July 1, 2007
200–299	(869–062–00133–9)	37.00	July 1, 2007
300–End	(869–062–00134–7)	61.00	July 1, 2007
37	(869–062–00135–5)	58.00	July 1, 2007
38 Parts:			
0–17	(869–062–00136–3)	60.00	July 1, 2007
18–End	(869–062–00137–1)	62.00	July 1, 2007
39	(869–062–00138–0)	42.00	July 1, 2007
40 Parts:			
1–49	(869–062–00139–8)	60.00	July 1, 2007
50–51	(869–062–00140–1)	45.00	July 1, 2007
52 (52.01–52.1018)	(869–062–00141–0)	60.00	July 1, 2007
52 (52.1019–End)	(869–062–00142–8)	64.00	July 1, 2007
53–59	(869–062–00143–6)	31.00	July 1, 2007
60 (60.1–End)	(869–062–00144–4)	58.00	July 1, 2007
60 (Apps)	(869–062–00145–2)	57.00	July 1, 2007
61–62	(869–062–00146–1)	45.00	July 1, 2007
63 (63.1–63.599)	(869–062–00147–9)	58.00	July 1, 2007
63 (63.600–63.1199)	(869–062–00148–7)	50.00	July 1, 2007
63 (63.1200–63.1439)	(869–062–00149–5)	50.00	July 1, 2007
63 (63.1440–63.6175)	(869–062–00150–9)	32.00	July 1, 2007
63 (63.6580–63.8830)	(869–062–00151–7)	32.00	July 1, 2007
63 (63.8980–End)	(869–062–00152–5)	35.00	July 1, 2007
64–71	(869–062–00153–3)	29.00	July 1, 2007
72–80	(869–062–00154–1)	62.00	July 1, 2007
81–84	(869–062–00155–0)	50.00	July 1, 2007
85–86 (85–86.599–99)	(869–062–00156–8)	61.00	July 1, 2007
86 (86.600–1–End)	(869–062–00157–6)	61.00	July 1, 2007
87–99	(869–062–00158–4)	60.00	July 1, 2007
100–135	(869–062–00159–2)	45.00	July 1, 2007
136–149	(869–062–00160–6)	61.00	July 1, 2007
150–189	(869–062–00161–4)	50.00	July 1, 2007
190–259	(869–062–00162–2)	39.00	[7] July 1, 2007
260–265	(869–062–00163–1)	50.00	July 1, 2007
266–299	(869–062–00164–9)	50.00	July 1, 2007
300–399	(869–062–00165–7)	42.00	July 1, 2007
400–424	(869–062–00166–5)	56.00	[7] July 1, 2007
425–699	(869–062–00167–3)	61.00	July 1, 2007
700–789	(869–062–00168–1)	61.00	July 1, 2007
790–End	(869–062–00169–0)	61.00	July 1, 2007
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
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7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
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18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–062–00170–3)	24.00	July 1, 2007
101	(869–062–00171–1)	21.00	July 1, 2007
102–200	(869–062–00172–0)	56.00	July 1, 2007
201–End	(869–062–00173–8)	24.00	July 1, 2007
42 Parts:			
1–399	(869–062–00174–6)	61.00	Oct. 1, 2007
400–413	(869–062–00175–4)	32.00	Oct. 1, 2007
414–429	(869–062–00176–2)	32.00	Oct. 1, 2007
430–End	(869–062–00177–1)	64.00	Oct. 1, 2007
43 Parts:			
1–999	(869–062–00178–9)	56.00	Oct. 1, 2007
1000–end	(869–062–00179–7)	62.00	Oct. 1, 2007
44	(869–062–00180–1)	50.00	Oct. 1, 2007
45 Parts:			
1–199	(869–062–00181–9)	60.00	Oct. 1, 2007
200–499	(869–060–00182–7)	34.00	[9] Oct. 1, 2007
500–1199	(869–062–00183–5)	56.00	Oct. 1, 2007
1200–End	(869–062–00184–3)	61.00	Oct. 1, 2007
46 Parts:			
1–40	(869–062–00185–1)	46.00	Oct. 1, 2007
41–69	(869–062–00186–0)	39.00	Oct. 1, 2007
70–89	(869–062–00187–8)	14.00	Oct. 1, 2007
90–139	(869–062–00188–6)	44.00	Oct. 1, 2007
140–155	(869–062–00189–4)	25.00	Oct. 1, 2007
156–165	(869–062–00190–8)	34.00	Oct. 1, 2007
166–199	(869–062–00191–6)	46.00	Oct. 1, 2007
200–499	(869–062–00192–4)	40.00	Oct. 1, 2007
500–End	(869–062–00193–2)	25.00	Oct. 1, 2007
47 Parts:			
0–19	(869–062–00194–1)	61.00	Oct. 1, 2007
20–39	(869–062–00195–9)	46.00	Oct. 1, 2007
40–69	(869–062–00196–7)	40.00	Oct. 1, 2007
70–79	(869–062–00197–5)	61.00	Oct. 1, 2007
80–End	(869–062–00198–3)	61.00	Oct. 1, 2007
48 Chapters:			
1 (Parts 1–51)	(869–062–00199–1)	63.00	Oct. 1, 2007
1 (Parts 52–99)	(869–062–00200–9)	49.00	Oct. 1, 2007
2 (Parts 201–299)	(869–062–00201–7)	50.00	Oct. 1, 2007
3–6	(869–062–00202–5)	34.00	Oct. 1, 2007

Title	Stock Number	Price	Revision Date
7–14	(869–062–00203–3)	56.00	Oct. 1, 2007
15–28	(869–062–00204–1)	47.00	Oct. 1, 2007
29–End	(869–062–00205–0)	47.00	Oct. 1, 2007
49 Parts:			
1–99	(869–062–00206–8)	60.00	Oct. 1, 2007
100–185	(869–062–00207–6)	63.00	Oct. 1, 2007
186–199	(869–062–00208–4)	23.00	Oct. 1, 2007
200–299	(869–062–00208–1)	32.00	Oct. 1, 2007
300–399	(869–062–00210–6)	32.00	Oct. 1, 2007
400–599	(869–062–00210–3)	64.00	Oct. 1, 2007
600–999	(869–062–00212–2)	19.00	Oct. 1, 2007
1000–1199	(869–062–00213–1)	28.00	Oct. 1, 2007
1200–End	(869–062–00214–9)	34.00	Oct. 1, 2007
50 Parts:			
1–16	(869–062–00215–7)	11.00	Oct. 1, 2007
17.1–17.95(b)	(869–062–00216–5)	32.00	Oct. 1, 2007
17.95(c)–end	(869–062–00217–3)	32.00	Oct. 1, 2007
17.96–17.99(h)	(869–062–00218–1)	61.00	Oct. 1, 2007
17.99(i)–end and 17.100–end	(869–062–00219–0)	47.00	[8] Oct. 1, 2007
18–199	(869–062–00226–3)	50.00	Oct. 1, 2007
200–599	(869–062–00221–1)	45.00	Oct. 1, 2007
600–659	(869–062–00222–0)	31.00	Oct. 1, 2007
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2007. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2006, through July 1, 2007. The CFR volume issued as of July 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2007. The CFR volume issued as of October 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2006, through October 1, 2007. The CFR volume issued as of October 1, 2006 should be retained.