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Federal Register

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3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, February 13, 2007
9:00 a.m.–Noon

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

RESERVATIONS: (202) 741–6008

Contents

Federal Register

Vol. 72, No. 23

Monday, February 5, 2007

Agency for International Development
NOTICES
Meetings:
Voluntary Foreign Aid Advisory Committee, 5258

Agricultural Marketing Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 5258–5259
Grade standards:
Mangos, 5259–5260
Mushrooms, 5260
Oranges and grapefruit (California and Arizona), 5260–5261
Peppers (other than sweet peppers), 5261

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Forest Service
See Rural Housing Service

Air Force Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 5274–5277

Animal and Plant Health Inspection Service
NOTICES
Environmental statements; availability, etc.:
Nonregulated status determinations—
Monsanto Co; soybean genetically engineered for glyphosate herbicide tolerance, 5261–5263
Safflower; genetically engineered to express carp growth hormones; field release, 5263–5264

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Bonneville Power Administration
NOTICES
Meetings:
Transmission rate case; hearing, 5283–5288

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 5297–5298

Children and Families Administration
NOTICES
Meetings:
People with Intellectual Disabilities, President's Committee, 5298

Commerce Department
See Economic Analysis Bureau
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Defense Department
See Air Force Department
See Navy Department
NOTICES
Meetings; Sunshine Act, 5273–5274

Economic Analysis Bureau
RULES
International services surveys:
BE-125; transactions in selected services and intangible assets with foreign persons; quarterly survey, 5169–5171
BE-185; financial services transactions between U.S. providers and foreign persons; quarterly survey, 5167–5169

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Safe and drug-free schools programs—
Alcohol and other drug prevention models on college campuses, 5279–5282
Meetings:
Historically Black Colleges and Universities President's Board of Advisors, 5282

Energy Department
See Bonneville Power Administration
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Nuclear Energy Research Advisory Committee, 5282–5283

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Alaska, 5232–5239
NOTICES
Meetings:
Acute Exposure Guideline Levels for Hazardous Substances National Advisory Committee, 5288–5289
Clean Air Scientific Advisory Committee, 5289–5290

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
Airbus, 5157–5166
Bombardier, 5164–5167
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 5314–5315
Reports and guidance documents; availability, etc.:
Required Navigation Performance Special Aircraft and Aircrew Authorization Required approaches; approval consultants, 5315–5316

Federal Communications Commission
NOTICES
Debarment proceedings:
Premio, Inc., 5290

Federal Deposit Insurance Corporation
PROPOSED RULES
Deposit insurance coverage:
Industrial bank subsidiaries of financial companies, 5217–5228
NOTICES
Reports and guidance documents; availability, etc.:
Industrial loan company and bank applications and notices; moratorium extension, 5290–5294

Federal Election Commission
NOTICES
Expenditure and contribution limits; price index increases, 5294–5296
Meetings; Sunshine Act, 5296

Federal Emergency Management Agency
RULES
Flood elevation determinations:
Various States, 5197–5214
PROPOSED RULES
Flood elevation determinations:
Various States, 5239–5255
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 5298–5299

Federal Energy Regulatory Commission
RULES
Organization, functions, and authority delegations:
Enforcement Office Director et al., 5171–5174

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 5296
Change in bank control; correction, 5296
Permissible nonbanking activities, 5296

Forest Service
NOTICES
Land and resource management plans, etc.:
Lake Tahoe Basin Management Unit, CA, 5264–5265

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration

Homeland Security Department
See Federal Emergency Management Agency
See U.S. Citizenship and Immigration Services

Industry and Security Bureau
NOTICES
Meetings:
Information Systems Technical Advisory Committee, 5265

Internal Revenue Service
RULES
Income taxes:
Foreign corporations; U.S. transfers of stock or securities, 5174–5197
PROPOSED RULES
Income taxes:
Certain transfers of stock or securities by U.S. persons to foreign corporations, 5228–5230
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 5316

International Trade Administration
NOTICES
Antidumping:
Honey from—
China, 5265–5266
Pasta from—
Italy and Turkey, 5266–5268
Preserved mushrooms from—
China, 5268
India, 5268–5269
Countervailing duties:
Pasta from—
Italy, 5271–5273
Turkey, 5269–5271

International Trade Commission
NOTICES
Import investigations:
Wireless conference calling devices, components, and devices containing same, 5300–5301

Labor Department
NOTICES
Organization, functions, and authority delegations:
Chief Acquisition Officer et al., 5320–5322

Millennium Challenge Corporation
NOTICES
Meetings; Sunshine Act, 5301

National Foundation on the Arts and the Humanities
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 5301–5303
Meetings:
Arts Advisory Panel, 5303

National Oceanic and Atmospheric Administration
RULES
Marine mammals:
Commercial fishing operations—
Atlantic Large Whale Take Reduction Plan, 5214–5216
PROPOSED RULES
Fishery and conservation management:
Alaska; fisheries of Exclusive Economic Zone—
Bering Sea and Aleutian Islands king and tanner crabs, 5255–5257
NOTICES
Scientific research permit applications, determinations, etc., 5273

Navy Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 5277–5278
Meetings:
Chief of Naval Operations Executive Panel, 5278
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Ionova Technologies, Inc., 5278
Walleye Technologies, Inc., 5278–5279

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Dominion Energy Kewaunee, Inc., 5303–5305

Personnel Management Office
RULES
Health benefits, Federal employees:
Payment of premiums for periods of leave without pay or insufficient pay, 5151–5153

Postal Regulatory Commission
PROPOSED RULES
Practice and procedure:
Postal rate and fee changes, 5230–5232

Presidential Documents
PROCLAMATIONS
Special observances:
American Heart Month (Proc. 8104), 5323–5326
ADMINISTRATIVE ORDERS
Darfur Peace and Accountability Act of 2006; assignment of functions (Memorandum of January 25, 2007), 5149

Rural Housing Service
RULES
Direct single family housing loans and grants:
Homeownership education requirements, 5153–5157

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
International Securities Exchange, LLC, 5305–5306
New York Stock Exchange LLC, 5306–5314

Transportation Department
See Federal Aviation Administration

Treasury Department
See Internal Revenue Service
See United States Mint

U.S. Citizenship and Immigration Services
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 5299–5300

United States Mint
NOTICES
American eagle gold and silver proof coins; uncirculated coin price increase, 5317

Veterans Affairs Department
NOTICES
Meetings:
Veterans' Disability Benefits Commission, 5317
Women Veterans Advisory Committee, 5317–5318

Separate Parts In This Issue

Part II
Labor Department, 5319–5322

Part III
Executive Office of the President, Presidential Documents, 5323–5326

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Proclamations:
8104.....5323
Administrative Orders:
Memorandums:
Memorandum of
January 25, 2007.....5149
5 CFR
890.....5151
7 CFR
3550.....5153
12 CFR
Proposed Rules:
354.....5217
14 CFR
39 (3 documents) ...5157, 5160, 5164
15 CFR
801 (2 documents) 5167, 5169
18 CFR
35.....5171
366.....5171
375.....5171
26 CFR
1.....5174
602.....5174
26 CFR
Proposed Rules:
1.....5228
39 CFR
Proposed Rules:
3001.....5230
40 CFR
Proposed Rules:
52.....5232
44 CFR
67.....5197
Proposed Rules:
67 (2 documents) 5239, 5247
50 CFR
229.....5214
Proposed Rules:
680.....5255

Federal Register
Vol. 72, No. 23
Monday, February 5, 2007

Presidential Documents

Title 3—

The President

Memorandum of January 25, 2007

Assignment of Functions Under the Darfur Peace and Accountability Act of 2006

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3, United States Code, I hereby assign to you the functions of the President under sections 6(a), 6(b), and 6(f) of the Darfur Peace and Accountability Act of 2006 (Public Law 109–344). In performing such functions, you shall consult with other heads of departments and agencies, as appropriate.

You are authorized and directed to publish this memorandum in the **Federal Register.**

THE WHITE HOUSE,
Washington, January 25, 2007.

[FR Doc. 07–512
Filed 2–2–07; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
Vol. 72, No. 23
Monday, February 5, 2007

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206–AG66

Federal Employees Health Benefits: Payment of Premiums for Periods of Leave Without Pay or Insufficient Pay

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations to rewrite certain sections of the Federal regulations in plain language. These final regulations require Federal agencies to provide employees entering leave without pay (LWOP) status, or whose pay is insufficient to cover their Federal Employees Health Benefits (FEHB) premium payments, written notice of their opportunity to continue their FEHB coverage. Employees who want to continue their enrollment must sign a form agreeing to pay their premiums directly to their agency on a current basis, or to incur a debt to be withheld from their future salary. The purpose of this final regulation is to rewrite the existing regulations to ensure that employees who are entering LWOP status, or whose pay is insufficient to pay their FEHB premiums, are fully informed when they decide whether or not to continue their FEHB coverage.

EFFECTIVE DATE: This regulation is effective on March 7, 2007.

FOR FURTHER INFORMATION CONTACT: Michael Kaszynski, Policy Analyst, at U.S. Office of Personnel Management, 1900 E Street, NW., Room 3425, Washington DC 20415. 202.606.0004.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) issued an interim regulation containing most of the substantive changes of this final regulation on July 22, 1996, at 61 FR 37807. This regulation is an up-dated plain language version of 61 FR 37807. On June 16, 2006, OPM published this plain language rewrite as a proposed regulation at 71 FR 34849. We received no comment on the proposed regulation. There have been no changes to the regulation from its proposed version.

Collection of Information Requirement

This final rule does not impose information collection and recordkeeping requirements that meet the definition of the Paperwork Reduction Act of 1995's term ''collection of information'' which means obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on ten or more persons, other than agencies, instrumentalities, or employees of the United States; or answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes. 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. 3501 *et seq.*).

Regulatory Flexibility Act

The Regulatory Flexibility Act (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 government agencies with revenues of $11.5 million or less in any one year. This rulemaking affects FEHB Program enrollment practices which do not impact the dollar threshold. Therefore, I certify that this regulation will not have a significant economic impact on a substantial number of small entities.

Regulatory Impact Analysis

We have examined the impact of this final rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the RFA (September 16, 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 (as amended by Executive Order 13258, which merely assigns responsibility of duties) 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 one year). This rule is not considered a major rule, as defined in section 804(2) of title 5, United States Code, because we estimate it will only affect Federal Government employment offices. Any resulting economic impact would not be expected to exceed the dollar threshold.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professionals, Hostages, Iraq, Kuwait, Lebanon, Military Personnel, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

Linda M. Springer,

Director.

■ For the reasons set forth in the preamble, OPM is amending 5 CFR part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

■ 1. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; § 890.102 also issued under sections 11202(f), 11232(e), 11246 (b) and (c) of Pub. L. 105–33, 111 Stat. 251; and section 721 of Pub. L. 105–261, 112 Stat. 2061, unless otherwise noted.

■ 2. In § 890.502, the section heading and paragraphs (a), (b), (c), (d) and (e) are revised to read as follows:

§ 890.502 Withholdings, contributions, LWOP, premiums, and direct premium payment.

(a) *Employee and annuitant withholdings and contributions.* (1) Employees and annuitants are responsible for paying the enrollee share of the cost of enrollment for every pay period during which they are enrolled. An employee or annuitant incurs a debt to the United States in the amount of the proper employee or annuitant withholding required for each pay period during which they are enrolled if the appropriate health benefits withholdings or direct premium payments are not made.

(2) An individual is not required to pay withholdings for the period between the end of the pay period in which he or she separates from service and the commencing date of an immediate annuity, if later.

(3) Temporary employees who are eligible to enroll under 5 U.S.C. 8906a must pay the full subscription charges including both the employee share and the Government contribution. Employees with provisional appointments under § 316.403 of this chapter are not considered eligible for coverage under 5 U.S.C. 8906a for the purpose of this paragraph.

(4) The employing office must calculate the withholding for employees whose annual pay is paid during a period shorter than 52 workweeks on an annual basis and prorate the withholding over the number of installments of pay regularly paid during the year.

(5) The employing office must make the withholding required from enrolled survivor annuitants in the following order. First, withhold from the annuity of a surviving spouse, if there is one. If that annuity is less than the amount required, withhold to the extent necessary from the annuity of the youngest child, and if necessary, from the annuity of the next older child, in succession, until the withholding is met.

(6) Surviving spouses who have a basic employee death benefit under 5 U.S.C. 8442(b)(1)(A) and annuitants whose health benefits premiums are more than the amount of their annuities may pay their portion of the health benefits premium directly to the retirement system acting as their employing office, as described in paragraph (d) of this section.

(b) *Procedures when an employee enters a leave without pay (LWOP) status or pay is insufficient to cover premium.* The employing office must tell the employee about available health benefits choices as soon as it becomes aware that an employee's premium payments cannot be made because he or she will be or is already in a leave without pay (LWOP) status or any other type of nonpay status. (This does not apply when nonpay is as a result of a lapse of appropriations.) The employing office must also tell the employee about available choices when an employee's pay is not enough to cover the premiums.

(1) The employing office must give the employee written notice of the choices and consequences as described in paragraphs (b)(2)(i) and (ii) of this section and will send a letter by first class mail if it cannot give it to the employee directly. If it mails the notice, it is deemed to be received within 5 days.

(2) The employee must elect in writing to either continue health benefits coverage or terminate it. (Exception: An employee who is subject to a court or administrative order as discussed in § 890.301(g)(3) cannot elect to terminate his or her enrollment as long as the court/administrative order is still in effect and the employee has at least one child identified in the order who is still eligible under the FEHB Program, unless the employee provides documentation that he or she has other coverage for the child(ren).) The employee may continue coverage by choosing one of the following ways to pay and returning the signed form to the employing office within 31 days after he or she receives the notice (45 days for an employee residing overseas). When an employee mails the signed form, its postmark will be used as the date the form is returned to the employing office. If an employee elects to continue coverage, he or she must elect in writing one of the following:

(i) Pay the premium directly to the agency and keep the payments current. The employee must also agree that if he or she does not pay the premiums currently, the employing office will recover the amount of accrued unpaid premiums as a debt under paragraph (b)(2)(ii) of this section.

(ii) If the employee does not wish to pay the premium directly to the agency and keep payments current, he or she may agree that upon returning to employment or upon pay becoming sufficient to cover the premiums, the employing office will deduct, in addition to the current pay period's premiums, an amount equal to the premiums for a pay period during which the employee was in a leave without pay (LWOP) status or pay was not enough to cover premiums. The employing office will continue using this method to deduct the accrued unpaid premiums from salary until the debt is recovered in full. The employee must also agree that if he or she does not return to work or the employing office cannot recover the debt in full from salary, the employing office may recover the debt from whatever other sources it normally has available for recovery of a debt to the Federal Government.

(3) If the employee does not return the signed form within the time period described in paragraph (b)(2) of this section, the employing office will terminate the enrollment and notify the employee in writing of the termination.

(4)(i) If the employee is prevented by circumstances beyond his or her control from returning a signed form to the employing office within the time period described in paragraph (b)(2) of this section, he or she may write to the employing office and request reinstatement of the enrollment. The employee must describe the circumstances that prevented him or her from returning the form. The request for reinstatement must be made within 30 calendar days from the date the employing office gives the employee notice of the termination. The employing office will determine if the employee is eligible for reinstatement of coverage. When the determination is affirmative, the employing office will reinstate the coverage of the employee retroactive to the date of termination. If the determination is negative, the employee may request a review of the decision from the employing agency (see § 890.104).

(ii) If the employee is subject to a court or administrative order as discussed in § 890.301(g)(3), the coverage cannot terminate. If the employee does not return the signed form, the coverage will continue and the employee will incur a debt to the Federal Government as discussed in paragraphs (b)(2)(i) and (b)(2)(ii) of this section.

(5) Terminations of enrollment under paragraphs (b)(2) and (3) of this section are retroactive to the end of the last pay period in which the premium was withheld from pay. The employee and covered family members, if any, are entitled to the temporary extension of coverage for conversion and may convert to an individual contract for health benefits. An employee whose coverage is terminated may enroll upon his or her return to duty in pay status in a position in which the employee is eligible for coverage under this part.

(c) *Procedures when agency under-withholds premiums.* (1) An agency that withholds less than the amount due for health benefits contributions from an individual's pay, annuity, or

compensation must submit an amount equal to the uncollected employee contributions and any applicable agency contributions to OPM for deposit in the Employees Health Benefits Fund.

(2) The agency must make the deposit to OPM as soon as possible, but no later than 60 calendar days after it determines the amount of an under-deduction that has occurred, regardless of whether or when the agency recovers the under-deduction. A subsequent agency decision on whether to waive collection of the overpayment of pay caused by failure to properly withhold employee health benefits contributions will be made under 5 U.S.C. 5584 as implemented by 4 CFR chapter I, subchapter G, unless the agency involved is excluded from 5 U.S.C. 5584, in which case any applicable authority to waive the collection may be used.

(d) *Direct premium payments for annuitants.* (1) If an annuity, excluding an annuity under subchapter III of chapter 84 (Thrift Savings Plan), is too low to cover the health benefits premium, or if a surviving spouse receives a basic employee death benefit, the retirement system must provide written information to the annuitant or surviving spouse. The information must describe the health benefits plans available, and include the opportunity to either:

(i) Enroll in a health benefits plan in which the enrollee's share of the premium is less than the annuity amount; or

(ii) Pay the premium directly to the retirement system.

(2) The retirement system must accept direct payment for health benefits premiums in these circumstances. The annuitant or surviving spouse must continue direct payment of the premium even if the annuity increases to the extent that it covers the premium.

(3) The annuitant or surviving spouse must pay the retirement system his or her share of the premium for the enrollment for every pay period during which the enrollment continues, except for the 31-day temporary extension of coverage. The individual must make the payment after each pay period in which he or she is covered using a schedule set up by the retirement system. If the retirement system does not receive payment by the due date, it must notify the individual in writing that continued coverage depends upon payment being made within 15 days (45 days for annuitants or surviving spouses residing overseas) after the notice is received. If no subsequent payments are made, the retirement system terminates the enrollment 60 days after the date of the notice (90 days for annuitants or surviving spouses residing overseas). An annuitant or surviving spouse whose enrollment terminated due to nonpayment of premium may not reenroll or reinstate coverage unless there are circumstances beyond his or her control as provided in paragraph (d)(4) of this section.

(4) If the annuitant or surviving spouse is prevented by circumstances beyond his or her control from paying the premium within 15 days after receiving the notice, he or she may ask the retirement system to reinstate the enrollment by writing the retirement system. The individual must describe the circumstances and send the request within 30 calendar days from the termination date. The retirement system will determine if the annuitant or surviving spouse is eligible for reinstatement of coverage. When the determination is affirmative, the retirement system will reinstate the coverage retroactive to the date of termination. If the determination is negative, then the individual may request a review of the decision from the retirement system, as described in § 890.104.

(5) Termination of enrollment for failure to pay premiums within the time frame described in paragraph (d)(3) of this section is retroactive to the end of the last pay period for which payment was timely received.

(6) The retirement system will submit all direct premium payments along with its regular health benefits premiums to OPM according to procedures established by OPM.

(e) *Procedures for direct payment of premiums during LWOP after 365 days.* (1) An employee who is granted leave without pay (LWOP) under subpart L of part 630 of this chapter (Family and Medical Leave) after 365 days of continued coverage under § 890.303(e) must pay the employee contributions directly to the employing office and keep payments current.

(2) The employee must make payments after the pay period in which the employee is covered according to a schedule set up by the employing office. If the employing office does not receive the payment by the date due, it must notify the employee in writing that continued coverage depends upon payment being made within 15 days (45 days for employees residing overseas) after the notice is received. If no subsequent payments are made, the employing office terminates the enrollment 60 days after the date of the notice (90 days for enrollees residing overseas).

(3) If the enrollee was prevented by circumstances beyond his or her control from making payment within the timeframe in paragraph (e)(2) of this section, he or she may ask the employing office to reinstate the enrollment by writing to the employing office. The employee must file the request within 30 calendar days from the date of termination and must include supporting documentation.

(4) The employing office determines whether the employee is eligible for reinstatement of coverage. When the determination is affirmative, the employing office will reinstate the coverage of the employee retroactive to the date of termination. If the determination is negative, the employee may request the employing agency to review the decision as provided under § 890.104.

(5) An employee whose coverage is terminated under paragraph (e)(2) of this section may enroll if he or she returns to duty in a pay status in a position in which the employee is eligible for coverage under this part.

* * * * *

[FR Doc. E7–1754 Filed 2–2–07; 8:45 am]

BILLING CODE 6329–39–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3550

RIN 0575–AC54

Direct Single Family Housing Loans and Grants

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: Through this action, the Rural Housing Service (RHS) is adopting homeownership education requirements. The lack of homeownership education is a well-known barrier to successful homeownership for many families. The intended effect of this action is to assure that first time homeowners financed under the Section 502 Direct program are well prepared for homeownership by assuring that they receive homeownership education.

DATES: This rule is effective on May 7, 2007.

FOR FURTHER INFORMATION CONTACT: Janet L. Carter, Senior Loan Specialist, Rural Housing Service, Stop 0783, 1400 Independence Avenue, SW., Washington, DC 20250–0783, Telephone: 202–720–1489; e-mail: *Janet.Carter@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction of 1995, the information collection requirements contained in this regulation have been approved by OMB under control number 0575–0172.

E-Government Act Compliance

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

Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with that Executive Order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with the regulations of the National Appeals Division of USDA at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, RHS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. 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 the UMRA.

Programs Affected

The programs affected by this proposed rule are 10.410, Low to Moderate Income Housing Loans and 10.417, Very Low-Income Housing Repair Loans and Grants.

Intergovernmental Consultation

For the reasons set forth in the final rule related Notice to 7 CFR part 3015, subpart V, these programs are not subject to Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It is the determination of RHS that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. This rule imposes a new requirement on Agency applicants and borrowers; however, the new requirement of homeownership education will apply solely to the individual applicants and borrowers of Section 502 Direct Single Family Housing financing, not to small entities. There will be no significant information collection, or regulatory requirements imposed on small entities under this proposed rule.

Federalism

The policies contained in this rule do not have any substantial direct effect on 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. Nor does this rule impose a substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Background

On March 6, 2006 the Agency published a proposed rule (71 FR 11167–9) with a 60 day comment period that would add homeowner education as a requirement for first time homebuyers that use Section 502 Direct loan funds to purchase a home. We received a total of 52 comments in response to the proposed rule. Overall the comments expressed support for the addition of the homeownership education requirement and generally agreed that homeowner education was necessary and beneficial. Many comments did have a recommendation or suggest a revision to the proposed rule. The comments are highlighted into significant issue areas and discussed below.

A. Homeowner Education as a Requirement Will Be a Barrier for Low-Income Families and Should Not Be Mandatory

The Agency received 5 comments stating that mandating homeowner education would create a barrier for families to access Section 502 loans for home purchase. The comments suggested the following as possible barriers for families:

- Availability of homeowner education classes;
- Perception of an additional requirement that could discourage applicants, realtors and sellers from participating in the program,
- The travel time, distance and cost to the applicant(s), and
- Lack of certified counselors in some areas.

The Agency does not believe that these are insurmountable barriers. In fact, based on the overall comments received, the Agency has determined that the general consensus is that making homeowner education a requirement results in greater benefit to the borrowers than any perceived detrimental effect to the home buying process. While the agency has established some preferences under § 3550.11 for formats in training based on their effectiveness, adequate flexibility has been included to address the possible barriers raised.

In addition, although the Agency does not expect the exception provision to be liberally used, it will be available. The State Director may grant an exception to borrowers on a case-by-case basis where the applicant documents a special need, such as a disability, that would impede completing the homeownership course, or where homeownership education is not reasonably available in the local area as further discussed below. Therefore, these comments have not been adopted.

B. Waiver of Homeowner Education by State Directors Should Not Be Routinely Exercised—RD Should Use Its Resources To Have Homeowner Education Services Delivered in Underserved Areas

The Agency received 9 comments indicating that the waiver provision should not be routinely exercised, and 3 comments indicating the waiver provision was needed but that flexibility should be built into the rule in exercising the waiver. The State/Local RD office will do an area by area assessment of the availability of homeowner education in the following forms, before requesting an exception for an individual from the State Director: Classroom, one-on-one counseling, interactive video conference, interactive home-study, interactive telephone counseling, and on-line counseling. Exception requests will be reviewed and granted on an individual case-by-case basis. The State Director will consider whether access to such homeownership counseling is ''reasonably available'' before granting an exception to the homeowner education requirement to an individual. Factors that will be taken into consideration regarding availability of homeowner education to borrowers in areas served by field offices include, but are not limited to: Distance, travel time, geographic obstacles and cost. The intent of the exception provision is to ensure that the homeowner education requirement is not a barrier to an applicant in securing a loan; however, it is not the intent of the Agency to have liberal use of the exception provision. The exception provision is intended to be used only in those rare instances where it is demonstrated that a borrower would not be able to access any form of homeowner education without undue hardship[m1].

C. Readily Available Counseling Should Be Defined

The Agency received 1 comment stating that readily available counseling should be defined in the rule. Informal investigation indicated that in some states applicants traveled up to one hour to attend a homeowner education class, after work and on the weekends, if necessary. Other comments were received that indicated an applicant would have to travel to another county to receive counseling. Distances vary from state to state and the willingness of an applicant to attend a class will vary. Given the many differences from state to state, what is '' readily available'' in this rule is better addressed by the State Director during the assessment of available homeowner education resources in the respective States. Factors that will be taken into consideration regarding availability of homeowner education to borrowers in areas served by field offices include, but are not limited to: distance, travel time, geographic obstacles and cost.

D. Lack of funds to pay for homeownership education training/who will pay for the homeowner education if the borrower cannot afford it?

The Agency received 7 comments regarding sources of funds to pay for homeowner education on behalf of very-low and low-income borrowers. Some commenters believe that the Agency should assist in paying for the required homeowner education. This issue will be addressed, in part, by the RD State Offices when they assess the availability of homeowner education throughout their respective states and compile, an annually updated resource list of certified organizations and trainers that provide homeowner education. Where there is a fee charged to the borrower for homeowner education, the States will also assess sources of funding for the borrower to pay for their homeowner education, for example, organizations that provide free homeowner education will be identified, and borrowers will be referred to the free training first in all states. The Agency research revealed that many organizations charge only a nominal fee to cover the cost of materials for homeowner education. If qualified, these providers will be identified, and borrowers will be referred to these classes if free classes are unavailable. In addition, the borrower will have the option of financing reasonable costs of the training, as determined by the State Director, by including the amount in the loan amount at loan closing. Inclusion of such costs will not substantially increase the monthly Section 502 borrower loan payments.

The Agency believes that the overall benefit of homeownership education outweighs the burdens involved. The cost of homeowner education will be another allowed expense that can be added to the cost of home purchase, if requested.

E. What is a reasonable fee to charge? Who decides?

The Agency received 10 comments regarding reasonable fees to charge for homeowner education and suggesting that the Agency to set parameters for homeownership education fees as a guideline for the RD State Directors. RD does not believe it is appropriate to set or regulate the appropriate fee for providers. This should be determined based on local market conditions. Based on the comments received, the Agency will allow the State Directors to determine what is a reasonable fee to be charged for homeowner education based on the results of statewide assessments within their respective states. The Agency anticipates fees charged to borrowers based on the comments received to range from free to $400.

F. Homeowner Education Training Fees Should Be Allowed to the Homebuyer in Excess of the Appraised Amount of the House

The Agency received 3 comments indicating that the fee for homeowner education counseling should be allowed in the loan amount in excess of the appraised value of the house. In response, the Agency will allow reasonable homeowner education fees to be added to the loan amount in excess of the appraised value of the house and area loan limits under § 3550.63 in cases where the borrower requests to pay for the cost of the homeowner education by adding it to the loan amount. The Agency anticipates that such amounts will be insignificant portions of the loan.

G. Should RD staff deliver the homeowner education?

The Agency received 4 comments stating that RD staff should deliver the homeowner education training. Staff capacity and, qualification to deliver training vary from state to state. State Directors have the flexibility within their States to determine the feasibility of offering this training using staff resources given other program demands. RD staff would have to be trained and certified to provide homeowner education as required under this rule.

H. Certification of Counselors: Should Include Certification From State Housing Finance Authorities or Other State Level Certification and Should Include Certification of Training That Is Culturally Appropriate for Native American Communities

The Agency received 18 comments stating that certification of housing counselors should be allowed on the state-level, either by the State Housing Financing Agencies or other state-level certification processes, 4 comments stating the certification should model the HUD standard or one of the national organizations referenced in the proposed rule, and 1 commenting regarding certification of culturally appropriate training for Native American communities, especially Native Americans that reside on rural reservations. The Agency agrees that

state-level certification and certification of culturally appropriate training for Native Americans should be included. It is addressed in the final rule by § 3550.11 permitting state-level certification by the State Housing Finance Agency or other state-level certification approved by the State Director, and certification by the National American Indian Housing Council, provided the required topics are included in their curriculum. The State Director will confirm that the housing counseling agencies that are not certified by a national agency identified in the final rule are certified by an approved state agency during the RD State Office assessment of available certified housing counseling agencies in their respective states.

I. What process should applicants undergo to receive a certificate of completion?

The Agency received 4 comments regarding the requirement for the borrower to have a certificate of completion or letter of completion from the housing counseling provider to document that the course was successfully completed. The main concern of these comments was that there should not be a testing component in order for the provider to issue a letter or certificate of completion to the participants. Since the language in the proposed rule lets the provider determine successful completion of their course, the Agency has determined that there is sufficient flexibility for each provider to make an appropriate individual assessment and; therefore, the language will remain the same in the final rule.

J. At what point during the home purchase process should the Homeowner Education be required?

The Agency received 8 comments regarding when during the home purchase process should the borrower complete homeowner education. Homeowner education must be completed by the borrower prior to closing their loan. When the borrowers receive their certificate of eligibility for a loan they will be advised that by accepting the certificate of eligibility they agree to submit documentation of homeowner education completion before loan closing and that they understand that it is a condition of loan closing. Language to this effect will be added to the Agency's certificate of eligibility document. At that time, the Agency will provide referrals to certified housing counselors to the borrower and discuss with the borrower where and when they will complete the homeowner education class.

Generally, the comments stated that the earlier in the process the homeownership education is taken the greater it would benefit the borrower. It would be ideal if the borrowers would complete an homeowner education course before submitting a loan application and certainly before signing a purchase and sale agreement; however, realistically, as some comments indicated this may not be practicable in all cases. Many borrowers are unlikely to incur the expense of taking a homeowner education course if they have no confidence that they will be approved for a loan to buy a house. In recognition of these realities, the Agency also will offer some flexibility to providers in tailoring the curriculum to the attendee. For example, when the attendee has already located a dwelling to purchase, they need not be required to take that portion of the training dealing with shopping for a home. The provider could determine that the applicant already has satisfactory knowledge in this area.

K. Will the requirement be the same for Self-Help families who apply for Section 502 Direct loans?

The Agency received 2 comments regarding whether Self-Help families would have to comply with the homeowner education requirement. If the Self-Help families are applying for Section 502 loans, then this rule requiring homeowner education as set forth would apply.

L. Suggestions for Adding Educational Components to Homeowner Education Course

The Agency received 8 comments regarding additional topics that should be included in the required homeowner education. The Agency recognizes the value of these additional topics, therefore, the final rule will add them as recommended: Budgeting—Pre-& Post-Purchase; Credit Counseling; Lender Differences—especially predatory lending; and Post-Occupancy Education to include delinquency and foreclosure prevention.

List of Subjects in 7 CFR Part 3550

Administrative practice and procedure, Conflict of interests, Environmental impact statements, Equal credit opportunity, Fair housing, Accounting, Housing, Loan programs—Housing and community development, Low and moderate income housing, Manufactured homes, Reporting and recordkeeping requirements, Rural areas, Subsidies.

■ For the reasons stated in the preamble, chapter XXXV, Title 7 of the Code of Federal Regulations, is amended as follows:

PART 3550—DIRECT SINGLE FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for part 3550 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1480.

Subpart A—General

■ 2. Section 3550.11 is added to read as follows:

§ 3550.11 State Director assessment of homeowner education.

(a) State Director's will make an assessment of the availability of certified homeowner education in their respective states and maintain an annually updated listing of providers and their reasonable costs.

(b) The order of preference for homeowner education formats is as follows:

(1) Classroom; one-on-one counseling; or interactive video conference.

(2) If none of the formats in paragraph (b)(1) of this section is reasonably available; as determined under § 3550.53(i), then the applicant may use interactive home-study or interactive telephone counseling of at least four hours duration.

(3) If none of the formats in paragraphs (b)(1) and (b)(2) of this section is reasonably available as determined under § 3550.53(i), then the applicant may use on-line counseling to meet the homeownership education requirement.

(c) Homeownership education must include a letter or certificate of completion and be provided by homeownership education counselors that are certified by any of the following:

(1) The Department of Housing and Urban Development (HUD);

(2) NeighborWorks America (NWA);

(3) The National Federation of Housing Counselors (NFHC);

(4) National American Indian Housing Council (NAIHC); or

(5) The State Housing Finance Agency or other qualified organization approved by the State Director.

(d) The provider will issue a letter or certificate of completion to document that the borrower has satisfactory knowledge of these minimum topics:

(1) Preparing for homeownership (evaluate readiness to go from rental to homeownership),

(2) Budgeting (pre and post-purchase),

(3) Credit counseling,

(4) Shopping for a home,

(5) Lender differences (predatory lending),

(6) Obtaining a mortgage (mortgage process, different types of mortgages),

(7) Loan closing (closing process, documentation, closing costs),

(8) Post-occupancy counseling (delinquency and foreclosure prevention),

(9) Life as a homeowner (homeowner warranties, maintenance and repairs),

(e) The provider may tailor the homeownership education training to the needs of the borrower to ensure satisfactory knowledge of the topics listed in paragraph (d) of this section.

Subpart B—Section 502 Origination

■ 3. Section 3550.52 (d)(10) is added to read as follows:

§ 3550.52 Loan purposes.

* * * * *

(d) * * *

(10) Reasonable fees for homeownership education as determined by the State Director under § 3550.11 of this subpart. Such fees may be added to the loan amount in excess of the area loan limit and appraised value of the house.

* * * * *

■ 4. Section 3550.53(i) is added to read as follows:

§ 3550.53 Eligibility requirements.

* * * * *

(i) *Homeownership education.* Applicants who are first-time homebuyers must agree to provide documentation, in the form of a completion certificate or letter from the provider, that a homeownership education course from a certified provider under § 3550.11 has been successfully completed as defined by the provider prior to loan closing. Requests for exceptions to the homeowner education requirement will be reviewed and granted on an individual case-by-case basis. The State Director may grant an exception the homeownership education requirement for individuals in geographic areas within the State where the State Director verifies that certified homeownership education is not reasonably available in the local area in any of the formats listed in § 3550.11(b). Whether such homeownership education is reasonably available will be determined based on factors including, but not limited to: Distance, travel time, geographic obstacles, and cost. On a case-by-case basis, the State Director also may grant an exception, provided the applicant borrower documents a special need, such as a disability, that would unduly impede completing a homeownership course in a reasonably available format.

Dated: January 5, 2007.

Russell T. Davis,

Administrator, Rural Housing Service.

[FR Doc. E7–1817 Filed 2–2–07; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–123–AD; Amendment 39–14920; AD 2007–03–09]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 Airplanes; Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F Airplanes (Collectively Called A300–600 Series Airplanes); and Model A310 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all of the airplanes identified above, that requires revising the FAA-approved maintenance program to include a new airplane maintenance manual task that specifies a detailed inspection after each ram air turbine (RAT) retraction. This AD also requires, for certain airplanes, a one-time inspection to detect breaks in the bottom flange fitting of the RAT and corrective actions, if necessary; for certain airplanes, an adjustment of the ejection jack; and, for certain other airplanes, replacement of the aluminum part with an improved steel part. The actions specified by this AD are intended to prevent failure of the RAT yoke fitting, which could result in the loss of RAT function and possible loss of critical flight control in the event of certain emergency situations. This action is intended to address the identified unsafe condition.

DATES: Effective March 12, 2007.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 12, 2007.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Airbus Model A300 airplanes; Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F series airplanes (collectively called A300–600 series airplanes); and Model A310 airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on May 9, 2006 (71 FR 26884). That action proposed to require revising the FAA-approved maintenance program to include a new airplane maintenance manual task that specifies a detailed inspection after each ram air turbine (RAT) extension. That action also proposed to require a one-time inspection to detect breaks in the bottom flange fitting of the RAT and corrective actions, if necessary; for certain airplanes, an adjustment of the ejection jack; and, for certain other airplanes, replacement of the aluminum part with an improved steel part.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Remove Airplanes From Requirement To Do Detailed Inspection

Airbus requests that we remove Model A300 airplanes from the ''effectivity'' of paragraph (a) of the supplemental NPRM, which specifies a detailed inspection for breaks of the bottom flange fitting of the yoke fitting for the RAT swivel coupling, and replacement if necessary. Airbus states that all Model A300-B2 and -B4 airplanes are equipped with Dowty RATs that have swivel coupling yoke fittings. The Dowty fittings are to be replaced in accordance with Airbus Service Bulletin A300–57–0244, dated March 4, 2005. That action is specified in paragraph (b) of the Supplemental NPRM. Airbus states that the FAA should specify that these airplanes are to use the up-to-date requirements of

French airworthiness directives F–2005–089, dated June 8, 2005; and F–2005–090 R1, dated July 6, 2005.

We agree with removing Model A300 airplanes from paragraph (a) of the AD. Airbus and the European Aviation Safety Agency (EASA) have assessed the risk based on worldwide fleet reports and decided that the necessary actions are those in Airbus Service Bulletin A300–57–0244, which specifies replacing the RAT swivel fitting. We have revised the AD by removing the reference to Model A300 airplanes in paragraph (a), deleting sub-paragraph (a)(1), and re-numbering the subsequent sub-paragraphs accordingly.

Request To Change References to RAT Extension

Airbus also points out that the revision to the FAA-approved maintenance program to specify an inspection for breaks of the bottom flange of the RAT swivel coupling yoke fitting after each RAT extension that is specified in the supplemental NPRM should instead specify an inspection after each RAT retraction. Airbus states that changing the wording in the supplemental NPRM would be consistent with Airbus and EASA documentation.

We agree with the request to change ''extension'' to ''retraction'' in the AD. The inspection should be done after the extension-retraction cycle rather than after each RAT extension. We have revised paragraph (c) and the Summary of the AD accordingly.

Request To Eliminate Reference to French Airworthiness Directive

Airbus also requests that we remove the reference to French airworthiness directive F–2003–149 R1, dated June 8, 2005, which is included in Note 5 of the supplemental NPRM. Airbus states that the one-time inspection in French airworthiness directive F–2003–149 R1 is completed, and this AD should mandate the up-to-date requirements by following the actions in French airworthiness directives F–2005–089 and F–2005–090 R1. These airworthiness directives refer to the airplane maintenance manual (AMM) sections for inspections following each retraction.

We agree with the request to remove the reference to French airworthiness directive F–2003–149 R1. Based on the fleet results obtained by Airbus and EASA in response to that airworthiness directive, the necessary corrective actions have been decided and are mandated through French airworthiness directives F–2005–089 and F–2005–090 R1. We have changed Note 4 of this AD to remove the reference to French airworthiness directive F–2003–149 R1.

Request To Clarify Credit Statement

Airbus also requests that we change paragraph (d) of the supplemental NPRM, ''Credit for Actions Accomplished Previously,'' regarding credit. Paragraph (d) states that actions done in accordance with Airbus All Operator's Telexes (AOTs) 57A6096 and 57A2085, both dated March 6, 2003, are acceptable for compliance with the corresponding actions in paragraph (a) of the supplemental NPRM. Airbus points out that only Revision 01 of the same AOTs (both dated April 11, 2005) are acceptable because only those revisions take into account the complementary investigations that identify the RAT swivel fitting failure and the corresponding corrective actions.

We agree that only Revisions 01 of Airbus A300–600 AOT 57A6096 and Airbus A310 AOT 57A2085 take into account the complementary investigations that identify the RAT swivel fitting failure and the corresponding corrective actions. Operators that did the actions in the original issues of the AOTs must verify the adjustment of the ejection jack and correct the adjustment, as applicable, in accordance with Revision 01 of the AOTs. Therefore, we have removed paragraph (d) of the supplemental NPRM, and re-lettered the subsequent paragraphs in the AD accordingly.

Request To Refer to AMM

TradeWinds Airlines states that paragraph (c)(3) of the supplemental NPRM should not specify Airbus Temporary Revision (TR) 29–015, dated April 12, 2005, but instead should refer to Airbus A300 AMM Chapter 29–25–00, Page Block 301, dated March 1, 2006. TradeWinds states that TR 29–015 contains instructions only for certain Model A300 airplanes. For other Model A300 airplanes, the instructions are in a different TR. Therefore, TradeWinds requests that we refer to Airbus A300 AMM Chapter 29–25–00 in paragraph (c)(3) of the supplemental NPRM, and that we also remove Note 3 of the supplemental NPRM, which refers to TR 29–015.

We agree with the request to revise paragraph (c)(3) of this AD and remove Note 3 of the supplemental NPRM. Airbus confirms that the TR references are assigned within a given code to a specific operator; therefore, the TR number may vary for different operators. Therefore, we have revised this AD as follows: We changed paragraph (c)(3) of the AD to refer to Airbus A300 AMM Chapter 29–25–00, Page Block 301, dated March 1, 2006; revised paragraph (c) to remove the reference to the TR; removed Note 3; and renumbered the subsequent notes accordingly.

Request To Change Reference to Aluminum Part

TradeWinds Airlines also requests that we change paragraph (c) of the supplemental NPRM to specify replacing the RAT swivel coupling yoke fitting with a new steel part rather than with a new aluminum part. TradeWinds points out that paragraph (b) of the supplemental NPRM mandates replacing the aluminum fitting with a steel fitting.

We partially agree with TradeWinds. We agree that the paragraph should refer to the steel fitting. We disagree with removing the reference to the aluminum fitting. Paragraph (c) of this AD applies to airplanes with either a Dowty or a Hamilton Sundstrand RAT. Paragraph (b) of this AD applies only to airplanes with Dowty RATs. Discrepant Hamilton Sundstrand RATs can be replaced with either an aluminum part or a steel part. Therefore, we have revised paragraph (c) of the AD to specify replacing the part with a new aluminum or steel part, as applicable.

Explanation of Additional Changes to This AD

Paragraph (c) of the supplemental NPRM specifies making repairs using a method approved by either the FAA or the Direction GOrale de l'Aviation Civile (DGAC) (or its delegated agent). The European Aviation Safety Agency (EASA) has assumed responsibility for the airplane models subject to this AD. Therefore, we have revised paragraph (c) of this AD to specify making repairs using a method approved by the FAA, the DGAC (or its delegated agent), or the EASA (or its delegated agent).

We have clarified the applicability to include the words ''all'' in the following statement: ''Applicability: All Model A300 airplanes; Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; and Model A310 airplanes; certificated in any category.''

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The following table provides the estimated costs for U.S. operators to comply with this AD. There are approximately 165 airplanes of U.S. registry that are affected by this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Fleet cost
Detailed Inspection	1	$80	$0	$80	$13,200
AMM Revision	1	80	0	80	13,200
Replacement with Steel Fork Fitting	6	80	470	950	156,750

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Authority for This Rulemaking

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

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

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 the following new airworthiness directive:

2007–03–09 Airbus: Amendment 39–14920. Docket 2003–NM–123–AD.

Applicability: All Model A300 airplanes; Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; and Model A310 airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the ram air turbine (RAT) yoke fitting, which could result in the loss of RAT function and possible loss of critical flight control in the event of certain emergency situations, accomplish the following:

Detailed Inspection and Replacement

(a) For Model A300–600 series airplanes, and Model A310 airplanes: Within 1,300 flight hours or 6 months after the effective date of this AD, whichever occurs first, do a detailed inspection for breaks of the bottom flange fitting of the yoke fitting for the RAT swivel coupling in accordance with the applicable all operators telex (AOT) in paragraph (a)(1) or (a)(2) of this AD. If the flange fitting is broken, before further flight, replace the flange fitting with a new flange fitting in accordance with the applicable AOT. For airplanes equipped with Hamilton Sundstrand RATs, verify the adjustment of the ejection jack, and correct the adjustment as applicable.

(1) For Model A300–600 series airplanes: Airbus A300–600 AOT 57A6096, Revision 01, dated April 11, 2005.

(2) For Model A310 airplanes: Airbus A310 AOT 57A2085, Revision 01, dated April 11, 2005.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(b) For Model A300 airplanes, Model A300–600 series airplanes, and Model A310 airplanes equipped with Dowty Rotol RATs, except airplanes on which Airbus Modification 12986 has been done: Within 12 months after the effective date of this AD, replace the RAT swivel coupling fork fitting with a new steel fitting, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0244, dated March 4, 2005 (for Model A300 airplanes); A300–57–6099, dated February 23, 2005 (for Model A300–600 series airplanes); or A310–57–2086, dated March 1, 2005 (for Model A310 airplanes); as applicable.

Revisions

(c) For all airplanes: Within 3 months after the effective date of this AD: Incorporate the information in the applicable aircraft maintenance manual (AMM) specified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD,

into the FAA-approved maintenance program to specify an inspection for breaks of the bottom flange of the RAT swivel coupling yoke fitting after each RAT retraction; and replacement of the RAT swivel coupling yoke fitting with a new aluminum or steel part as applicable; in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Direction Générale de l'Aviation Civile (or its delegated agent); or European Aviation Safety Agency (or its delegated agent). The page blocks specified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, as applicable, are one approved method for the actions required by paragraph (c) of this AD. Thereafter, except as provided by paragraph (d) of this AD, no alternative inspection intervals may be approved for the bottom flange of the RAT swivel coupling yoke fitting.

(1) Airbus A300–600 AMM, Chapter 29–25–00, Page Block 301, dated June 1, 2005.

(2) Airbus A310 AMM, Chapter 29–25–00, Page Block 301, dated June 1, 2005.

(3) Airbus A300 AMM Chapter 29–25–00, Page Block 301, dated March 1, 2006.

Note 2: After revising the maintenance program to include the required periodic inspections according to this paragraph, operators do not need to make a maintenance log entry to show compliance with this AD every time those inspections are accomplished thereafter.

Note 3: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (d) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25–1529–1.

Alternative Methods of Compliance

(d)(1) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, is authorized to approve alternative methods of compliance for this AD.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Note 4: The subject of this AD is addressed in French airworthiness directives F–2005–089, dated June 8, 2005; and F–2005–090 R1, dated July 6, 2005.

Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions must be done in accordance with the applicable service information specified in Table 1 of this AD. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of this service information, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. To inspect copies of this service information, go to the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Service information	Revision level	Date
Airbus A300–600 All Operators Telex 57A6096	01	April 11, 2005.
Airbus A310 All Operators Telex 57A2085	01	April 11, 2005.
Airbus Service Bulletin A300–57–0244	Original	March 4, 2005.
Airbus Service Bulletin A300–57–6099	Original	February 23, 2005.
Airbus Service Bulletin A310–57–2086	Original	March 1, 2005.

Effective Date

(f) This amendment becomes effective on March 12, 2007.

Issued in Renton, Washington, on January 24, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–1601 Filed 2–2–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24289; Directorate Identifier 2005–NM–186–AD; Amendment 39–14921; AD 2007–03–10]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 Airplanes; A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model A300 C4–605R Variant F Airplanes (Collectively Called A300–600 Series Airplanes); and A310 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus airplanes identified above. This AD requires improving the routing of certain electrical wire bundles in certain airplane zones, as applicable to the airplane model. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD becomes effective March 12, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of March 12, 2007.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC.

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

FOR FURTHER INFORMATION CONTACT: Thomas Stafford, Aerospace Engineer, International Branch, ANM–116,

Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all Airbus Model A300 airplanes; A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called A300–600 series airplanes); and A310 airplanes. That supplemental NPRM was published in the **Federal Register** on September 11, 2006 (71 FR 53341). That supplemental NPRM proposed to require the actions in the original NPRM, which were improving the routing of certain electrical wire bundles in certain airplane zones, as applicable to the airplane model. That supplemental NPRM also revised the original NPRM by removing certain proposed requirements, and extending the compliance time for a certain replacement. That supplemental NPRM also specified that the actions are considered interim until a terminating action for the removed proposed requirements is approved and available.

Relevant Service Information

Since we issued the supplemental NPRM, we have reviewed and approved the service bulletins listed in the following table. We referred to earlier revisions of these service bulletins as appropriate sources of service information for accomplishing certain actions in the supplemental NPRM. We have changed paragraphs (f)(2), (g), (h)(1), and (h)(2), and Table 1 of this AD to include references to these new revisions, and to give credit for accomplishment of previous revisions. The changes in the service information do not change the scope of the AD.

NEW REVISIONS OF CERTAIN SERVICE BULLETINS

Airbus Service Bulletin—	Was Issued to—
A300–24–6004, Revision 04, dated November 15, 2005	• Change the manufacturer's serial numbers in Paragraph 1.A. "Effectivity." • Specify that the service bulletin has been rendered mandatory in France. • Give the European Aviation Safety Agency (EASA) designation organization approval number. • Include references to certain other documents. • Update certain access and test information. • Include a note regarding the removal of a certain clamp.
A300–24–6043, Revision 07, dated October 11, 2006	• Change the manufacturer's serial numbers in Paragraph 1.A. "Effectivity." • Revise manpower estimates. • Include references to certain other documents. • Revise materials description. • Add a note regarding the size of certain clamps.
A300–28–6056, Revision 01, dated January 20, 2006	• Change the manufacturer's serial numbers in Paragraph 1.A. "Effectivity." • Specify that the service bulletin is part of the fuel safety assessment program. • Specify that the service bulletin has been rendered mandatory in France. • Include references to certain other documents. • Update material, price, and industry support information. • Update certain access and part number information.
A310–24–2009, Revision 04, dated November 15, 2005	• Change the manufacturer's serial numbers in Paragraph 1.A. "Effectivity." • Specify that the service bulletin has been rendered mandatory in France. • Give the EASA designation organization approval number. • Include references to certain other documents. • Update certain access and test information. • Include a note regarding the removal of a certain clamp.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment received.

Request To Change Incorporation of Certain Information

The Modification and Replacement Parts Association (MARPA) states that, typically, airworthiness directives are based on service information originating with the type certificate holder or its suppliers. MARPA adds that manufacturer service documents are privately authored instruments generally having copyright protection against duplication and distribution. MARPA notes that when a service document is incorporated by reference into a public document, such as an airworthiness directive, it loses its private, protected status and becomes a public document. MARPA adds that if a service document is used as a mandatory element of compliance, it should not simply be referenced, but should be incorporated into the regulatory document; by definition, public laws must be public, which means they cannot rely upon private writings. MARPA is concerned that the failure to incorporate essential service

information could result in a court decision invalidating the AD.

MARPA adds that incorporated by reference service documents should be made available to the public by publication in the Docket Management System (DMS), keyed to the action that incorporates them. MARPA notes that the stated purpose of the incorporation by reference method is brevity, to keep from expanding the **Federal Register** needlessly by publishing documents already in the hands of the affected individuals; traditionally, ''affected individuals'' means aircraft owners and operators, who are generally provided service information by the manufacturer. MARPA adds that a new class of affected individuals has emerged, since the majority of aircraft maintenance is now performed by specialty shops instead of aircraft owners and operators. MARPA notes that this new class includes maintenance and repair organizations, component servicing and repair shops, parts purveyors and distributors, and organizations manufacturing or servicing alternatively certified parts under part 21 of the Federal Aviation Regulations (14 CFR part 21), § 21.303 (parts manufacturer approval) (PMA). MARPA adds that the concept of brevity is now nearly archaic as documents exist more frequently in electronic format than on paper. Therefore, MARPA asks that the service documents deemed essential to the accomplishment of the NPRM be incorporated by reference into the regulatory instrument, and published in the DMS.

We understand MARPAs comment concerning incorporation by reference. The Office of the Federal Register (OFR) requires that documents that are necessary to accomplish the requirements of the AD be incorporated by reference during the final rule phase of rulemaking. This final rule incorporates by reference the document necessary for the accomplishment of the requirements mandated by this AD. Further, we point out that while documents that are incorporated by reference do become public information, they do not lose their copyright protection. For that reason, we advise the public to contact the manufacturer to obtain copies of the referenced service information.

Additionally, we do not publish service documents in DMS. We are currently reviewing our practice of publishing proprietary service information. Once we have thoroughly examined all aspects of this issue, and have made a final determination, we will consider whether our current practice needs to be revised. However, we consider that to delay this AD action for that reason would be inappropriate, since we have determined that an unsafe condition exists and that the requirements in this AD must be accomplished to ensure continued safety. Therefore, we have not changed the AD in this regard.

Clarification of Paragraph (f)(2)

We have clarified paragraph (f)(2) of this AD to specify the intended paragraph identifier referenced in that paragraph.

Conclusion

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

Interim Action

We consider this AD interim action. The EASA, which is the airworthiness authority for the European Union, has informed us that the manufacturer is currently developing an additional modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, we may consider additional rulemaking.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD.

This AD affects about 169 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD. The average labor rate is $80 per work hour.

ESTIMATED COSTS

For airplanes on which this action is required—	Work hours	Parts	Cost per airplane
Action 3, Modify the retaining and protection system	4 to 16	$836 to $1,056	$1,156 to $2,336.
Action 4, Modify the electrical wiring of routes 1P and 2P	2	$720	$880.
Action 5, Inspect the wire looms on the wing trailing edge	8	Operator Supplied	$640.
Action 6, Replace the nylon clamps of the electrical routes in the hydraulic compartment and in the shroud box.	44 to 98	$100 to $5,700	$3,620 to $13,540.

Based on these figures, the estimated cost of the AD for U.S. operators is up to $2,939,924, or up to $17,396 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2007–03–10 Airbus: Amendment 39–14921. Docket No. FAA–2006–24289; Directorate Identifier 2005–NM–186–AD.

Effective Date

(a) This AD becomes effective March 12, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Airbus Model A300 airplanes; A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, A300 F4–605R, F4–622R, and C4–605R Variant F airplanes; and A310 airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

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

Action 3—Modify the Retaining and Protection System

(f) For all airplanes identified in paragraphs (f)(1) and (f)(2) of this AD: Within 26 months after the effective date of this AD, modify the retaining and protection system for the electrical bundles located at the wing-to-fuselage junction, under the flap control screw jack.

(1) For Model A300 airplanes: Do the actions specified in paragraph (f) of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–24–0085, Revision 06, dated October 13, 2005.

(2) For Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, A300 F4–605R, F4–622R, and C4–605R Variant F airplanes, except those on which Airbus Modification 10505 has been done: Do the actions specified in paragraph (f) of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–24–6043, Revision 07, dated October 11, 2006.

Action 4—Modify the Electrical Wiring of Routes 1P and 2P

(g) For Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, A300 F4–605R, F4–622R, and C4–605R Variant F airplanes; except those on which Airbus Modification 11741 has been done: Within 26 months after the effective date of this AD, modify the electrical wiring of routes 1P and 2P (along the top panel of the shroud box and the rear spars of the wings) by extending the protective conduits up to the next support, and replace the two existing clamps on this support with new, improved clamps. Do all actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–28–6056, Revision 01, dated January 20, 2006.

Action 5—Inspect the Wire Looms

(h) For all airplanes identified in paragraphs (h)(1) and (h)(2) of this AD: Within 26 months after the effective date of this AD, do a general visual inspection of the wire looms on the wing trailing edge for improperly held wires in the clamps, restore the electrical bundles to good condition, and replace the affected nylon clamps with metallic clamps that have an elastomer lining. Do all applicable corrective action before further flight. Repeat the inspection thereafter at intervals not to exceed 26 months until all clamps have been replaced.

(1) For Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, A300 F4–605R, F4–622R, and C4–605R Variant F airplanes; except those on which Airbus Modification 6478 has been done: Do the actions specified in paragraph (h) of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–24–6004, Revision 04, dated November 15, 2005.

(2) For Model A310 airplanes, except those on which Airbus Modification 6478 has been done: Do the actions specified in paragraph (h) of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–24–2009, Revision 04, dated November 15, 2005.

Action 6—Improve the Quality of the Electrical Routes

(i) For all airplanes identified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD: Within 26 months after the effective date of this AD, replace the nylon clamps of the electrical routes in the hydraulic compartment and in the shroud box with new metallic clamps that have white silicone lining (for airplanes identified in paragraph (i)(1) of this AD); and/or replace the nylon clamps and change the location of routes 1P and 2P to improve the retention of the wiring loom (for airplanes identified in paragraphs (i)(2) and (i)(3) of this AD); as applicable.

(1) For Model A300 airplanes; except those on which Airbus Modification 11763 has been done: Do the actions specified in paragraph (i) of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–24–0100, dated April 7, 2005.

(2) For Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, A300 F4–605R, F4–622R, and C4–605R Variant F airplanes; except those on which Airbus Modifications 11763 and 12995 have been done: Do the actions specified in paragraph (i) of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–24–6084, Revision 01, dated June 28, 2005.

(3) For Model A310 airplanes, except those on which Airbus Modification 11763 has been done: Do the actions specified in paragraph (i) of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–24–2091, dated March 4, 2005.

Parts Installation

(j) After the effective date of this AD, no person may install on any airplane plate assemblies with part numbers A5351088000000 or A5351088000100 unless they have been modified in accordance with paragraph (f) of this AD.

Actions Accomplished According to Previous Revisions of Service Bulletins

(k) Actions done before the effective date of this AD in accordance with the service bulletins identified in Table 1 of this AD are acceptable for compliance with the corresponding requirements in this AD.

TABLE 1.—PREVIOUS REVISIONS OF SERVICE BULLETINS

Airbus Service Bulletin	Revision level	Date
A300–24–0085	Original	December 12, 1994.
A300–24–0085	03	January 17, 1996.
A300–24–0085	04	July 23, 1996.
A300–24–0085	05	March 6, 2001.

TABLE 1.—PREVIOUS REVISIONS OF SERVICE BULLETINS—Continued

Airbus Service Bulletin	Revision level	Date
A300–24–6004	1	January 28, 1988.
A300–24–6004	2	February 24, 1995.
A300–24–6004	03	June 30, 1998.
A300–24–6043	Original	December 12, 1994.
A300–24–6043	01	February 7, 1995.
A300–24–6043	02	May 10, 1995.
A300–24–6043	03	January 17, 1996.
A300–24–6043	04	March 6, 2001.
A300–24–6043	05	August 30, 2001.
A300–24–6043	06	October 13, 2005.
A300–24–6084	Original	March 4, 2005.
A300–28–6056	Original	February 18, 1998.
A310–24–2009	Original	May 31, 1985.
A310–24–2009	1	January 28, 1988.
A310–24–2009	2	February 24, 1995.
A310–24–2009	03	June 30, 1998.

Alternative Methods of Compliance (AMOCs)

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

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(m) European Aviation Safety Agency airworthiness directive 2006–0074, dated April 3, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(n) You must use the service information specified in Table 2 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Airbus Service Bulletin	Revision level	Date
A300–24–0085	06	October 13, 2005.
A300–24–0100	Original	April 7, 2005.
A300–24–6004	04	November 15, 2005.
A300–24–6043	07	October 11, 2006.
A300–24–6084	01	June 28, 2005.
A300–28–6056	01	January 20, 2006.
A310–24–2009	04	November 15, 2005.
A310–24–2091	Original	March 4, 2005.

Issued in Renton, Washington, on January 24, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–1602 Filed 2–2–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26046; Directorate Identifier 2006–NM–172–AD; Amendment 39–14922; AD 2007–03–11]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This AD requires inspecting for discrepancies of the activation mechanism of certain chemical oxygen generators, and corrective action if necessary. This AD results from several incidents, on certain airplane models, of incorrect installation of the release pin into the safety pin hole of the activation mechanism of the chemical oxygen generator; this resulted in failure to activate the chemical oxygen generator when required. A separate incident occurred on a different airplane model during deployment of the cabin oxygen system, which resulted in failure of the

release pin to activate the oxygen generator at a flight attendant station. We are issuing this AD to prevent failure of the activation mechanism of the chemical oxygen generator, which could result in the unavailability of supplemental oxygen and possible incapacitation of passengers and cabin crew during an in-flight decompression.

DATES: This AD becomes effective March 12, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of March 12, 2007.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL–401, Washington, DC.

Contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Dan Parrillo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7305; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. That NPRM was published in the **Federal Register** on October 12, 2006 (71 FR 60083). That NPRM proposed to require inspecting for discrepancies of the activation mechanism of certain chemical oxygen generators, and corrective action if necessary.

Comments

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

Request To Incorporate by Reference/Publish Service Information

The Modification and Replacement of Parts Association (MARPA) states that frequently ADs are derived from service information originating with the type certificate holder or its suppliers. MARPA also states that manufacturer's service documents are privately authored instruments generally enjoying copyright protection against duplication and distribution. MARPA contends that when a service document is incorporated by reference pursuant to 5 U.S.C. 552(a) and 1 CFR part 51 into a public document such as an AD, it loses its private, protected status and becomes itself a public document. MARPA explains that if a service document is used as a mandatory element of compliance it should not simply be referenced, but should be incorporated into the regulatory document. MARPA states that public laws by definition must be public, which means they cannot rely for compliance upon private writings, especially when the writings originate in a foreign country. MARPA adds that the interpretation of a document is not a question of fact, but of law, bound by the figurative four corners of the document; therefore, unless the service document is incorporated by reference, a court of law will not consider it when interpreting the AD. MARPA is concerned that failure to incorporate-by-reference the relevant service information could result in a court decision invalidating the AD.

MARPA advises that it was informed that service documents are usually not incorporated into proposed actions (NPRMs), but only into final actions. MARPA notes that there is no indication in the NPRM that the FAA intends to incorporate by reference the necessary service information; in addition, there is no indication of which service documents are mandatory and which are merely sources of additional service information; therefore, the reader is unsure of the FAA's intent. MARPA asks that future proposed actions indicate the FAA intent by including the following, or a similar statement: ''We intend to incorporate by reference the following publications.''

MARPA also states that incorporation by reference service documents should be made available to the public by publication in the Docket Management System (DMS) keyed to the action that incorporates them. MARPA adds that, under the aforementioned authorities, incorporation by reference is a technique used to reduce the size of the **Federal Register** when the information is already available to the affected individuals. MARPA notes that, traditionally, ''affected individuals'' has meant aircraft owners and operators who are generally provided service information by the manufacturer. MARPA states that a new class of affected individuals has emerged since the majority of aircraft maintenance is now performed by specialty shops instead of aircraft owners and operators. MARPA adds that this new class includes maintenance and repair organizations (MRO), component servicing and repair shops, parts purveyors and distributors and organizations manufacturing or servicing alternatively certified parts under section 21.303 (''Replacement and modification parts'') of the Federal Aviation Regulations (14 CFR 21.303). Further, MARPA notes that the concept of brevity is now nearly archaic as documents exist more frequently in electronic format than on paper. Therefore, MARPA asks that the service documents deemed essential to the accomplishment of the NPRM be incorporated by reference into the regulatory instrument, and published in DMS prior to release of the AD.

We understand MARPA's comment concerning incorporation by reference. The Office of the Federal Register (OFR) requires that documents that are necessary to accomplish the requirements of the AD be incorporated by reference during the final rule phase of rulemaking. This final rule incorporates by reference the documents necessary for the accomplishment of the requirements mandated by this AD. Further, we point out that while documents that are incorporated by reference do become public information, they do not lose their copyright protection. For that reason, we advise the public to contact the manufacturer to obtain copies of the referenced service information.

The FAA does not concur with the commenter's request to indicate in an NPRM our intent to incorporate service information by reference. When we propose that actions be accomplished in accordance with certain service information in an NPRM, the public may assume we intend to IBR that service information, as requested by the Office of the Federal Register. Service information that is cited in the proposed AD as a source of additional information is not presented as a requirement, and the public may assume we do not intend to IBR that service information. No change to this final rule is necessary in regard to the commenter's request.

In regard to MARPA's request to post service bulletins on the Department of

Transportation's DMS, we are currently in the process of reviewing issues surrounding the posting of service bulletins on the DMS as part of an AD docket. Once we have thoroughly examined all aspects of this issue and have made a final determination, we will consider whether our current practice needs to be revised. No change to the final rule is necessary in response to this comment.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

This AD affects about 145 airplanes of U.S. registry.

The inspection in Bombardier Alert Service Bulletin A601R–35–014 takes about 3 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of this inspection for U.S. operators is $34,800, or $240 per airplane.

The inspection in Bombardier Service Bulletin 601R–35–016 takes about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of this inspection for U.S. operators is $11,600, or $80 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2007–03–11 Bombardier, Inc. (Formerly Canadair): Amendment 39–14922. Docket No. FAA–2006–26046; Directorate Identifier 2006–NM–172–AD.

Effective Date

(a) This AD becomes effective March 12, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category; as identified in Bombardier Alert Service Bulletin A601R–35–014, dated September 25, 2003; and Bombardier Service Bulletin 601R–35–016, dated September 8, 2005.

Unsafe Condition

(d) This AD results from several incidents, on certain airplane models, of incorrect installation of the release pin into the safety pin hole of the activation mechanism of the chemical oxygen generator; this resulted in failure to activate the chemical oxygen generator when required. A separate incident occurred on a different airplane model during deployment of the cabin oxygen system, and resulted in failure of the release pin to activate the oxygen generator at a flight attendant station. We are issuing this AD to prevent failure of the activation mechanism of the chemical oxygen generator, which could result in the unavailability of supplemental oxygen and possible incapacitation of passengers and cabin crew during an in-flight decompression.

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.

Inspections/Corrective Action

(f) Do the detailed inspections for discrepancies of certain chemical oxygen generators of each flight attendant and lavatory oxygen panel, as applicable, and each passenger service unit of the passenger oxygen system, as specified in paragraphs (f)(1) and (f)(2) of this AD, as applicable.

(1) For airplanes identified in paragraph 1.A. of Bombardier Alert Service Bulletin A601R–35–014, dated September 25, 2003: Within 550 flight hours after the effective date of this AD, do a one-time inspection for correct alignment and engagement of the release pin with the lanyard tube in the mask container module of the activation (firing) mechanism in the chemical oxygen generator by doing all the actions, including all applicable corrective actions, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–35–014, dated September 25, 2003. Do all applicable corrective actions before further flight.

(2) For airplanes identified in paragraph 1.A. of Bombardier Service Bulletin 601R–35–016, dated September 8, 2005: Within 1,100 flight hours after the effective date of this AD; do a one-time inspection for correct installation of the release pin of the activation mechanism of the chemical oxygen generator, by doing all the actions, including all applicable corrective actions, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–35–016, dated September 8, 2005. Do all applicable corrective actions before further flight.

Note 1: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

Note 2: Bombardier Service Bulletin 601R–35–016, dated September 8, 2005, refers to B/E Aerospace Service Bulletin 117003–35–4, dated March 29, 2001, as an additional source of service information for accomplishing the inspection and corrective action specified in paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

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

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(h) Canadian airworthiness directive CF–2006–11, dated May 31, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(i) You must use Bombardier Alert Service Bulletin A601R–35–014, dated September 25, 2003; and Bombardier Service Bulletin 601R–35–016, dated September 8, 2005; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on January 24, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–1600 Filed 2–2–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 061005257–7018–02]

RIN 0691–AA62

International Services Surveys: BE–185, Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: This final rule amends regulations of the Bureau of Economic Analysis, Department of Commerce (BEA) to set forth the reporting requirements for the BE–185, Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Foreign Persons. This survey replaces a similar but more limited survey, the BE–85, Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons. A new agency form number and survey title are being introduced because the survey program is being reconfigured to begin collection of data on transactions with affiliated foreigners using the same survey instruments as are used to collect information on transactions with unaffiliated foreigners. This change will allow respondents to report financial services transactions with foreign persons on one quarterly survey, rather than on as many as three different quarterly surveys. The BE–185 survey will be conducted quarterly beginning with the first quarter of 2007.

The BE–185 survey data will be used to update universe estimates from similar data reported on the BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons and on the benchmark and quarterly direct investment surveys that were administered to collect data on transactions with affiliated foreign persons.

DATES: This final rule will be effective March 7, 2007

FOR FURTHER INFORMATION CONTACT: Obie G. Whichard, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; e-mail *obie.whichard@bea.gov;* or phone (202) 606–9890.

SUPPLEMENTARY INFORMATION: In the November 16, 2006 **Federal Register**, 71 FR 66706, BEA published a notice of proposed rulemaking setting forth reporting requirements for the BE–185, Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Foreign Persons. No comments were received on the proposed rule. Thus, the proposed rule is adopted without change. This final rule amends 15 CFR Part 801.9 to replace the reporting requirements for the BE–85, Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, with requirements for the BE–185, Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Foreign Persons.

Description of Changes

The BE–185 survey is a mandatory survey and will be conducted, beginning with transactions for the first quarter of 2007, by BEA under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101—3108). For the initial quarter of coverage, BEA will send the survey to potential respondents in March of 2007; responses will be due by May 15, 2007.

The BE–185 will collect all the same information as the BE–85 but will also include financial services transactions with affiliated parties (i.e., with foreign affiliates, foreign parents, and foreign affiliates of foreign parents). BEA is currently collecting these transactions on its quarterly direct investment surveys (the BE–577, Direct Transactions of U.S. Reporter with Foreign Affiliate, the BE–605, Transactions of U.S. Affiliate, except a U.S. Banking Affiliate, with Foreign Parent, and the BE–605 Bank, Transactions of U.S. Banking Affiliate with Foreign Parent). These transactions with affiliated parties that are collected on BEA(s quarterly direct investment surveys will now be collected on the BE–185 instead. In addition, the BE–185 will bifurcate the category for brokerage services into two categories, by collecting information on services related to equities transactions separately from other brokerage services.

Survey Background

The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the BE–185 survey under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), hereinafter, ''the Act'' and Section 5408 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418, 15 U.S.C. 4908(b)). Section 4(a) of the Act (22 U.S.C. 3103(a)) provides that the President shall, to the extent he deems necessary and feasible, conduct a regular data collection program to secure current information related to international investment and trade in services and publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection.

In Section 3 of Executive Order 11961, as amended by Executive Orders 12318 and 12518, the President

delegated the responsibilities under the Act for performing functions concerning international trade in services to the Secretary of Commerce, who has redelegated them to BEA. The survey will provide a basis for updating estimates of the universe of financial services transactions between U.S. and foreign persons. The data are needed to monitor trade in financial services; analyze its impact on the U.S. and foreign economies; compile and improve the U.S. international transactions, national income and product, and input-output accounts; support U.S. commercial policy on financial services; assess and promote U.S. competitiveness in international trade in services; and improve the ability of U.S. businesses to identify and evaluate market opportunities.

Executive Order 12866

This final rule has been determined to be not significant for purposes of E.O. 12866.

Executive Order 13132

This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federal assessment under E.O. 13132.

Paperwork Reduction Act

The collection-of-information in this final rule has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid Office of Management and Budget Control Number. The OMB control number for the BE–185 is 0608–0065; the collection will display this number.

The BE–185 quarterly survey is expected to result in the filing of reports containing mandatory data from approximately 175 respondents on a quarterly basis, or 700 annually. The respondent burden for this collection of information will vary from one respondent to another, but is estimated to average 10 hours per response (40 hours annually), including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total respondent burden for the BE–185 survey is estimated at 7,000 hours, compared to 5,000 hours estimated for the previous BE–85 survey. The increase in burden is a result of the inclusion of transactions with affiliated foreign persons.

Comments regarding this burden estimate or any other aspect of this collection of information should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230, fax: 202–606–5311; and the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0065, Attention PRA Desk Officer for BEA, via e-mail at *pbugg@omb.eop.gov* or by fax at 202–395–7245.

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule will not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published with the proposed rule. No comments were received regarding the economic impact of this rule. As a result, no final regulatory flexibility analysis was prepared.

List of Subjects in 15 CFR Part 801

International transactions, Economic statistics, Financial services, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: January 30, 2007.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

■ For the reasons set forth in the preamble, BEA amends 15 CFR Part 801, as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

■ 1. The authority citation for 15 CFR Part 801 continues to read as follows:

Authority: 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; and E.O. 11961, 3 CFR, 1977 Comp., p. 86, as amended by E.O. 12318, 3 CFR, 1981 Comp., p. 173, and E.O. 12518, 3 CFR, 1985 Comp., p. 348.

■ 2. Revise § 801.9(c)(4). to read as follows:

§ 801.9 Reports required.

(c) Quarterly surveys. * * *

(4) BE–185, Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Foreign Persons:

(i) A BE–185, Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Foreign Persons, will be conducted covering the first quarter of the 2007 calendar year and every quarter thereafter.

(A) *Who must report—(1) Mandatory reporting.* Reports are required from each U.S. person who is a financial services provider or intermediary, or whose consolidated U.S. enterprise includes a separately organized subsidiary or part that is a financial services provider or intermediary, and that had sales of covered services to foreign persons that exceeded $20 million for the previous fiscal year or expects sales to exceed that amount during the current fiscal year, or had purchases of covered services from foreign persons that exceeded $15 million for the previous fiscal year or expects purchases to exceed that amount during the current fiscal year. These thresholds should be applied to financial services transactions with foreign persons by all parts of the consolidated U.S. enterprise combined that are financial services providers or intermediaries. Because the thresholds are applied separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both sales and purchases. Quarterly reports for a year may be required retroactively when it is determined that the exemption level has been exceeded.

(*i*) The determination of whether a U.S. financial services provider or intermediary is subject to this mandatory reporting requirement may be based on the judgment of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed records search.

(*ii*) Reporters who file pursuant to this mandatory reporting requirement must provide data on total sales and/or purchases of each of the covered types of financial services transactions and must disaggregate the totals by country.

(*2*) *Voluntary reporting.* If a financial services provider or intermediary, or all of a firm's subsidiaries or parts combined that are financial services providers or intermediaries, had covered sales of $20 million or less, or covered purchases of $15 million or less during the previous fiscal year, and if covered sales or purchases are not to expected to exceed these amounts in the current fiscal year, a person is requested to provide an estimate of the total for each type of service for the most recent quarter. Provision of this information is

voluntary. The estimates may be based on the reasoned judgment of the reporting entity. Because these thresholds apply separately to sales and purchases, voluntary reporting may apply only to sales, only to purchases, or to both.

(B) *BE–185 definition of financial services provider.* The definition of financial services provider used for this survey is identical in coverage to Sector 52 B Finance and Insurance, and holding companies that own or influence, and are principally engaged in making management decisions for these firms (part of Sector 55 B Management of Companies and Enterprises) of the North American Industry Classification System, United States, 2002. For example, companies and/or subsidiaries and other separable parts of companies in the following industries are defined as financial services providers: Depository credit intermediation and related activities (including commercial banking, savings institutions, credit unions, and other depository credit intermediation); nondepository credit intermediation (including credit card issuing, sales financing, and other nondepository credit intermediation); activities related to credit intermediation (including mortgage and nonmortgage loan brokers, financial transactions processing, reserve, and clearinghouse activities, and other activities related to credit intermediation); securities and commodity contracts intermediation and brokerage (including investment banking and securities dealing, securities brokerage, commodity contracts dealing, and commodity contracts brokerage); securities and commodity exchanges; other financial investment activities (including miscellaneous intermediation, portfolio management, investment advice, and all other financial investment activities); insurance carriers; insurance agencies, brokerages, and other insurance related activities; insurance and employee benefit funds (including pension funds, health and welfare funds, and other insurance funds); other investment pools and funds (including open-end investment funds, trusts, estates, and agency accounts, real estate investment trusts, and other financial vehicles); and holding companies that own, or influence the management decisions of, firms principally engaged in the aforementioned activities.

(C) *Covered types of services.* The BE–185 survey covers the following types of financial services transactions (purchases and/or sales) between U.S. financial services providers and foreign persons: Brokerage services related to equities transactions; other brokerage services; underwriting and private placement services; financial management services; credit-related services, except credit card services; credit card services; financial advisory and custody services; securities lending services; electronic funds transfer services; and other financial services.

(ii) [Reserved]

* * * * *

[FR Doc. E7–1783 Filed 2–2–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 061005256–7017–02]

RIN 0691–AA61

International Services Surveys: BE–125, Quarterly Survey of Transactions in Selected Services and Intangible Assets With Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: This final rule amends regulations of the Bureau of Economic Analysis, Department of Commerce (BEA) to set forth the reporting requirements for the BE–125, Quarterly Survey of Transactions in Selected Services and Intangible Assets with Foreign Persons. This survey replaces a similar but more limited survey, the BE–25, Quarterly Survey of Transactions with Unaffiliated Foreign Persons in Selected Services and in Intangible Assets. A new agency form number and survey title are being introduced because the survey program is being reconfigured to begin collection of data on transactions with affiliated foreigners using the same survey instruments as are used to collect information on transactions with unaffiliated foreigners and because services once collected on an annual basis will now be collected quarterly. This change will allow respondents to report transactions in services and intangible assets with foreign persons on one quarterly survey, rather than on as many as three different quarterly surveys and one annual survey. The BE–125 survey will be conducted quarterly beginning with the first quarter of 2007.

The BE–125 survey data will be used to update universe estimates from similar data reported on the BE–120, Benchmark Survey of Transactions in Selected Services and Intangible Assets with Foreign Persons and on the benchmark and quarterly direct investment surveys that were administered to collect data on transactions with affiliated foreign persons.

DATES: This final rule will be effective March 7, 2007.

FOR FURTHER INFORMATION CONTACT: Obie G. Whichard, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; e-mail *obie.whichard@bea.gov*; or phone (202) 606–9890.

SUPPLEMENTARY INFORMATION: In the November 20, 2006 **Federal Register**, 71 FR 67086, BEA published a notice of proposed rulemaking setting forth reporting requirements for the BE–125, Quarterly Survey of Transactions in Selected Services and Intangible Assets with Foreign Persons. No comments were received on the proposed rule. Thus, the proposed rule is adopted without change. This final rule amends 15 CFR 801.9 to replace the reporting requirements for the BE–25, Quarterly Survey of Transactions with Unaffiliated Foreign Persons in Selected Services and in Intangible Assets, with requirements for the BE–125, Quarterly Survey of Transactions in Selected Services and Intangible Assets with Foreign Persons.

Description of Changes

The BE–125 survey is a mandatory survey and will be conducted, beginning with transactions for the first quarter of 2007, by BEA under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), hereinafter, ''the Act.'' For the initial quarter of coverage, BEA will send the survey to potential respondents in March of 2007; responses will be due by May 15, 2007.

The BE–125 will collect information now reported on the BE–25, Quarterly Survey of Transactions Between U.S. and Unaffiliated Foreign Persons in Selected Services and in Intangible Assets, and will also include services transactions that BEA is currently collecting on the BE–22, Annual Survey of Selected Services Transactions Between U.S. and Unaffiliated Foreign Persons, and services transactions with affiliated parties (i.e., with foreign affiliates, foreign parents, and foreign affiliates of foreign parents). In addition to discontinuing the BE–25, BEA also will discontinue the BE–22 at the time the BE–125 is implemented. BEA is currently collecting information on the transactions with affiliated parties on its

quarterly direct investment surveys (the BE–577, Direct Transactions of U.S. Reporter with Foreign Affiliate, the BE–605, Transactions of U.S. Affiliate, except a U.S. Banking Affiliate, with Foreign Parent, and the BE–605 Bank, Transactions of U.S. Banking Affiliate with Foreign Parent). These transactions with affiliated parties that are collected on BEA's quarterly direct investment surveys will now be collected on the BE–125 instead. In addition, the BE–125 will combine several services into one ''other selected services'' category, which includes any services not individually covered by the survey or available from other sources.

Survey Background

The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), hereinafter, ''the Act.'' Section 4(a) of the Act (22 U.S.C. 3103(a)) provides that the President shall, to the extent he deems necessary and feasible, conduct a regular data collection program to secure current information related to international investment and trade in services and publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection.

In Section 3 of Executive Order 11961, as amended by Executive Orders 12318 and 12518, the President delegated the responsibilities under the Act for performing functions concerning international trade in services to the Secretary of Commerce, who has redelegated them to BEA. The survey will provide a basis for updating estimates of the universe of transactions between U.S. and foreign persons in selected services and intangible assets. The data are needed to monitor trade in services and intangible assets; analyze its impact on the U.S. and foreign economies; compile and improve the U.S. international transactions, national income and product, and input-output accounts; support U.S. commercial policy on services and intangible assets; assess and promote U.S. competitiveness in international trade in services; and improve the ability of U.S. businesses to identify and evaluate market opportunities.

Executive Order 12866

This final rule has been determined to be not significant for purposes of E.O. 12866.

Executive Order 13132

This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federal assessment under E.O. 13132.

Paperwork Reduction Act

The collection-of-information in this final rule has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid Office of Management and Budget Control Number. The OMB control number for the BE–125 is 0608–0067; the collection will display this number.

The BE–125 quarterly survey is expected to result in the filing of reports containing mandatory data from approximately 1,000 respondents on a quarterly basis, or 4,000 annually. The respondent burden for this collection of information will vary from one respondent to another, but is estimated to average 16 hours per response (64 hours annually), including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total respondent burden for the BE–125 survey is estimated at 64,000 hours, compared to 35,200 hours estimated for the previous BE–25 survey. The increase in burden is a result of three factors: More U.S. persons with transactions in international services, the addition of selected services transactions that were previously covered by the BE–22, annual survey of selected services transactions (9,200 burden hours), and the inclusion of transactions with affiliated foreign persons.

Comments regarding this burden estimate or any other aspect of this collection of information should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230, fax: 202–606–5311; and the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0067, Attention PRA Desk Officer for BEA, via e-mail at * * * or by fax at 202–395–7245.

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule will not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published with the proposed rule. No comments were received regarding the economic impact of this rule. As a result, no final regulatory flexibility analysis was prepared.

List of Subjects in 15 CFR Part 801

International transactions, Economic statistics, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: January 30, 2007.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

■ For the reasons set forth in the preamble, BEA amends 15 CFR Part 801, as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

■ 1. The authority citation for 15 CFR Part 801 continues to read as follows:

Authority: 5 U.S.C. 301; 15 U.S.C. 4908; 22 U.S.C. 3101–3108; and E.O. 11961, 3 CFR, 1977 Comp., p. 86, as amended by E.O. 12318, 3 CFR, 1981 Comp., p. 173, and E.O. 12518, 3 CFR, 1985 Comp., p. 348.

■ 2. Amend § 801.9 by removing and reserving paragraph (b)(2) and revising paragraph (c)(6) to read as follows:

§ 801.9 Reports required.

(c) Quarterly surveys. * * *

(6) BE–125, Quarterly Survey of Transactions in Selected Services and Intangible Assets with Foreign Persons:

(i) A BE–125, Quarterly Survey of Transactions in Selected Services and Intangible Assets with Foreign Persons, will be conducted covering the first quarter of the 2007 calendar year and every quarter thereafter.

(A) *Who must report—(1) Mandatory reporting.* Reports are required from each U.S. person that: (a) Had sales of covered services or intangible assets to foreign persons that exceeded $6 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year; or (b) had purchases of covered services or intangible assets from foreign persons that exceeded $4 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. Because the thresholds are applied separately to sales and purchases, the mandatory reporting

requirement may apply only to sales, only to purchases, or to both sales and purchases. Quarterly reports for a year may be required retroactively when it is determined that the exemption level has been exceeded.

(*2*) *Voluntary reporting.* Reports are requested from each U.S. person that had sales of covered services or intangible assets to foreign persons that were $6 million or less for the previous fiscal year and are expected to be less than or equal to that amount during the current fiscal year, or had purchases of covered services or intangible assets from foreign persons that were $4 million or less for the previous fiscal year and are expected to be less than or equal to that amount during the current fiscal year. Provision of this information is voluntary. The estimates may be based on recall, without conducting a detailed records search. Because these thresholds apply separately to sales and purchases, voluntary reporting may apply only to sales, only to purchases, or to both.

(B) Any person receiving a BE–125 survey form from BEA must complete all relevant parts of the form and return the form to BEA. A person that is not subject to the mandatory reporting requirement in paragraph (c)(6)(i)(A)(*1*) of this section and is not filing information on a voluntary basis must complete Parts 1 and 2 of the survey. This requirement is necessary to ensure compliance with the reporting requirements and efficient administration of the survey by eliminating unnecessary follow-up contact.

(C) *Covered services and intangible assets.* The BE–125 survey is intended to collect information on U.S. international trade in all types of services and intangible assets for which information is not collected in other BEA surveys and is not available to BEA from other sources. The major types of services transactions not covered by the BE–125 survey are travel, transportation, insurance (except for purchases of primary insurance), financial services (except for purchases by non-financial firms), and expenditures by students and medical patients who are studying or seeking treatment in a country different from their country of residence. Covered services are: Advertising services; accounting, auditing, and bookkeeping services; auxiliary insurance services; computer and data processing services; construction services; data base and other information services; educational and training services; engineering, architectural, and surveying services; financial services (purchases only, by companies or parts of companies that are not financial services providers); industrial engineering services; industrial-type maintenance, installation, alteration, and training services; legal services; management, consulting, and public relations services (including allocated expenses); merchanting services (sales only); mining services; operational leasing services; other trade-related services; performing arts, sports, and other live performances, presentations, and events; premiums paid on purchases of primary insurance; losses recovered on purchases of primary insurance; research, development, and testing services; telecommunications services; and other selected services. ''Other selected services'' includes, but is not limited to: Agricultural services; account collection services; disbursements to fund news-gathering costs of broadcasters; disbursements to fund news-gathering costs of print media; disbursements to fund production costs of motion pictures; disbursements to fund production costs of broadcast program material other than news; disbursements to maintain government tourism and business promotion offices; disbursements for sales promotion and representation; disbursements to participate in foreign trade shows (purchases only); employment agencies and temporary help supply services; language translation services; mailing, reproduction, and commercial art; management of health care facilities; salvage services; satellite photography and remote sensing/satellite imagery services; security services; space transport (includes satellite launches, transport of goods and people for scientific experiments, and space passenger transport); transcription services; and waste treatment and depollution services. The intangible assets covered by the BE–125 survey are rights related to: Industrial processes and products; books, compact discs, audio tapes and other copyrighted material and intellectual property; trademarks, brand names, and signatures; performances and events pre-recorded on motion picture film and television tape, including digital recording; broadcast and recording of live performances and events; general use computer software; business format franchising fees; and other intangible assets, including indefeasible rights of users.

(ii) [Reserved]

* * * * *

[FR Doc. E7–1786 Filed 2–2–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35, 366, and 375

[Docket No. RM06–20–000; Order No. 691]

Delegations of Authority

Issued January 29, 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations governing delegations of authority to the Directors of the Office of Enforcement and the Office of Energy Markets and Reliability, as well as to the Commission's Chief Accountant. These amendments will eliminate regulatory uncertainty and provide clarity regarding the authority delegated to the Office of Enforcement and the Chief Accountant.

EFFECTIVE DATE: This Final Rule is effective January 29, 2007.

FOR FURTHER INFORMATION CONTACT: Connie Caldwell, Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6489, *connie.caldwell@ferc.gov.*

SUPPLEMENTARY INFORMATION:

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

1. The Federal Energy Regulatory Commission (Commission) is amending 18 CFR Parts 35, 366, and 375 to revise its regulations governing delegations of authority to the Directors of the Office of Enforcement (OE) [1] and the Office of Energy Markets and Reliability (OEMR), as well as to the Commission's Chief Accountant.[2] These amendments will eliminate regulatory uncertainty and provide clarity regarding the authority delegated to the Office of Enforcement and the Chief Accountant.

I. Background

2. The Commission has broad statutory authority to perform acts and

[1] The changes to the regulations in Part 375 relate only to the Office of Enforcement and the Chief Accountant. While this rule makes certain changes to the Part 375 delegations to the Director of the Office of Markets, Tariffs, and Rates (now the Office of Energy Markets and Reliability), those changes are made merely to conform the regulations to current office structures and the responsibilities of the Office of Enforcement. The Commission anticipates issuing a rule in the future that will address other changes to Part 375.

[2] The Commission's Chief Accountant reports to the Director of Enforcement, but is delegated certain authority directly by the Commission.

make rules that are necessary or appropriate to carry out its statutory functions.[3] This includes the delegation of its statutory authority to staff members on routine matters, ''which in many cases represent nothing more than a ministerial judgment by the office director concerning procedural matters,'' to allow the Commission to focus on more complex and controversial tasks.[4] The Commission has delegated certain of its authority in a series of orders beginning in 1978.[5]

3. When the Office of Market Oversight and Investigations (OMOI), the predecessor to OE, was created in 2003, the Commission issued Order No. 632,[6] which promulgated OMOI's original delegations of authority. In Order No. 632, the Commission stated that certain delegations to the General Counsel and to the Director of the Office of Markets, Tariffs, and Rates (OMTR, now known as the Office of Energy Markets and Reliability or OEMR), were being duplicated in OMOI's delegations.

4. The following year, in Order No. 650,[7] the Commission revised the delegations promulgated in Order No. 632 to reflect the move of the Division of Regulatory Audits (renamed the Division of Financial Audits) from the Office of the Executive Director (OED) to OMOI. In Order No. 650, the relevant delegation provisions were added to the OMOI delegations and deleted from the OED delegations. In 2005, pursuant to another reorganization, the Regulatory Accounting policy function, as well as the Chief Accountant, were moved from OMTR to OMOI.

5. On April 17, 2006, the reorganization and renaming of OMOI as OE became effective. OE includes an administrative branch and four divisions—Investigations, Audits, Financial Regulation (for which the Chief Accountant also serves as the Division Director), and Energy Market Oversight.

II. Discussion

6. Part 375, Subpart C, of the Commission's rules and regulations sets out delegations of authority to the various office directors, such as the Directors of OMOI (now called OE)[8] and OMTR (now called OEMR),[9] as well as to statutory officers such as the Chief Accountant.[10] The regulations in Part 375 which are amended by this rule are found in §§ 375.303, 375.307, and 375.314, and are discussed below.

7. Section 375.314[11] includes the delegations of authority to the Director of OMOI (now OE). Amendments to this section are made to replace the former office title of Office of Market Oversight and Investigations with the title Office of Enforcement and occur in the title to § 375.314, and in the text of § 375.314(b), (c), and (d).[12]

8. Sections 375.314(i), (j), and (k)[13] of the current delegations to the Director of OMOI (now OE) concern auditing matters and essentially duplicate delegations formerly made to the Director of OMTR (now OEMR) at a time when auditing matters were handled in OMTR. These matters fall solely within the purview of the Director of OE. Accordingly, this rule removes § 375.307(a), (c), and (d)[14] from the delegations to the Director of OMTR (now OEMR).

9. The remaining amendments to the regulations, as discussed below, reflect changes in the responsibilities of the Chief Accountant which occurred when the Regulatory Accounting policy function was moved to OMOI (now OE), discussed above, as well as through delegations made by the Commission in Order Nos. 667[15] and 679.[16] When the Regulatory Accounting policy function was moved to OMOI (now OE), responsibility for administering Annual Reports (FERC Form Nos. 1, 1–F, 2, 2–A, and 6)[17] and Electric Quarterly Reports (EQRs)[18] were transferred to the Chief Accountant. These, as well as all other forms, data collections, and reports administered by the Chief Accountant, assist the Commission in its review and approval of cost-based rates. The data contained in these forms, data collections, and reports serve other purposes as well.

10. In Order No. 679, among other things, the Commission created FERC–730 (report of transmission investment activity)[19] and delegated to the Chief Accountant the authority to act on motions for extensions of time to file the newly-created FERC–730, or motions to waive the requirements applicable to those filings. However, that recent delegation is not reflected in the Chief Accountant's delegations in 18 CFR 375.303. Instead, the delegatory language was codified as part of § 35.35(h), which comprises the regulations describing the report and the filing requirements for that report. In order to centralize all delegations to the Chief Accountant, this rule amends the regulations to add this delegation to 18 CFR 375.303, and revises § 35.35(h)(3) to remove the delegatory language therein.

11. In Order Nos. 667, among other things, the Commission created FERC Form No. 60 (Annual Report of Centralized Service Companies).[20] In Order No. 667–A, the Commission

[3] *See* Regulations Delegating Authority, Order No. 492, 53 FR 16058 (May 5, 1988), FERC Stats. & Regs. Regulations Preambles 1986–1990 ¶ 30,814 at 31,117 & n. 2 (1988), *citing* 16 U.S.C. 825h (Federal Power Act), 15 U.S.C. 717o (Natural Gas Act), and 15 U.S.C. 3411 (Natural Gas Policy Act of 1978).

[4] *See* J.R. Ferguson and Associates, 20 FERC ¶ 61,132 at p. 61,291 (1982) (footnote omitted).

[5] Existing delegations of authority were promulgated in a series of rulemakings initiated in 1978. *See* Delegations to Various Office Directors of Certain Commission Authority, 43 FR 36433 (Aug. 17, 1978), FERC Stats. & Regs. Regulations Preambles 1977–1981 ¶ 30,016 (1978); Chief Accountant, *et al.*, Delegation of Authority; Final Regulation, Order No. 38, 44 FR 45449 (Aug. 8, 1979), FERC Stats. & Regs. Regulations Preambles 1977–1981 ¶ 30,068 (1979), *reh'g denied* , 8 FERC ¶ 61,299 (1979); Delegation of the Commission's Authority to the Directors of Office of Electric Power Regulation, Office of the Chief Accountant, and Office of Pipeline and Producer Regulation, Order No. 147, 46 FR 29700 (June 3, 1981), FERC Stats. & Regs. Regulations Preambles 1977–1981 ¶ 30,259 (1981); Delegation of Authority, Order No. 224, 47 FR 17806 (Apr. 26, 1982), FERC Stats. & Regs. Regulations Preambles 1982–1985 ¶ 30,356 (1982); Regulations Delegating Authority, Order No. 492, 53 FR 16058 (May 5, 1988), FERC Stats. & Regs. Regulations Preambles 1986–1990 ¶ 30,814 (1988); Streamlining Commission Procedures for Review of Staff Action, Order No. 530, 55 FR 50677 (May 5, 1988), FERC Stats. & Regs. Regulations Preambles 1986–1990 ¶ 30,906 (1990), *reh'g denied*, Order No. 530–A, 56 FR 4719 (Feb. 6, 1991), FERC Stats. & Regs. Regulations Preambles 1991–1996 ¶ 30,914 (1991); Delegation of Authority to the Secretary, the Director of the Office of Electric Power Regulation, and the General Counsel, Order No. 585, 60 FR 62326 (Dec. 6, 1995), FERC Stats. & Regs. Regulations Preambles January 1991–June 1996 ¶ 31,030 (1995); Delegation of Authority, Order No. 613, 64 FR 73403 (Dec. 30, 1991), FERC Stats. & Regs. Regulations Preambles July 1996–December 2000 ¶ 31,087 (1999); Delegation of Authority, Order No. 632, 68 FR 25814 (May 14, 2003), FERC Stats. & Regs. Regulations Preambles 2001–2005 ¶ 31,087 (2003).

[6] Delegations of Authority, Order No. 632, 68 FR 25814 (May 14, 2003), FERC Stats. & Regs. Regulations Preambles 2001–2005 ¶ 31,087 (2003).

[7] Delegations of Authority, 69 FR 64659 (Nov. 8, 2004), FERC Stats. & Regs. Regulations Preambles 2001–2005 ¶ 31,169 (2004). The original designation as Order No. 651 was corrected to Order No. 650 by an errata notice issued on November 12, 2004.

[8] 18 CFR 375.314.

[9] 18 CFR 375.307.

[10] 18 CFR 375.303.

[11] 18 CFR 375.314.

[12] 18 CFR 375.314(b), (c), and (d), respectively.

[13] 18 CFR 375.314(i), (j), and (k), respectively.

[14] 18 CFR 375.307(a), (c), and (d), respectively.

[15] Repeal of the Public Utility Holding Company Act of 1935 and Enactment of the Public Utility Holding Company Act of 2005, Order No. 667, 70 FR 75592 (Dec. 20, 2005), FERC Stats. & Regs. ¶ 31,197 (2005), *order on reh'g,* Order No. 667–A, 71 FR 28446 (May 16, 2006), FERC Stats. & Regs. ¶ 31,213 (2006), *order on reh'g,* Order No. 667–B, 71 FR 42750 (July, 28, 2006), FERC Stats. & Regs. ¶ 31,224 (2006), *reh'g pending.*

[16] Promoting Transmission Investment through Pricing Reform, Order No. 679, 71 FR 43294 (Jul. 31, 2006), 116 FERC ¶ 61,057 (2006); *order on reh'g,* Order No. 679–A, 117 FERC ¶ 61,345 (2006).

[17] *See* 18 CFR 141.1, 141.2, 260.1, 260.2, and 357.2, respectively.

[18] *See* 18 CFR 35.10b.

[19] *Codified at* 18 CFR 35.35(h).

[20] 20 Order No. 667 at P 82–85; *codified at* 18 CFR 366.23.

created FERC–61 (narrative description of service company functions).[21] In Order No. 667–A, the Commission delegated to the Chief Accountant the authority to act on motions for extensions of time to file and requests for waiver of the requirements of FERC Form No. 60 and FERC–61.[22] In Order No. 684, §§ 375.303(f) and (g) were amended to include those delegations also.[23] In order to centralize all delegations to the Chief Accountant, this rule amends 18 CFR 375.303, and revises § 366.23(a)(3) to remove the delegatory language therein.

12. To summarize, currently, the Chief Accountant is authorized to: (1) Act on motions for extension of time to file Form No. 60, FERC–61, and FERC–730; (2) act on requests for waiver of the requirements of Form Nos. 3–Q and 6–Q,[24] Form No. 60, FERC–61, and FERC–730; and (3) issue deficiency letters regarding Form Nos. 3–Q and 6–Q. The rule amends the regulations to uniformly authorize the Chief Accountant to: (1) Act on motions for extensions of time to file, (2) act on requests for waiver of the requirements of, and (3) issue deficiency letters regarding, each of the above-discussed forms, data collections, and reports (Form Nos. 1, 1–F, 2, 2–A, 6, 3–Q, 6–Q, 60; FERC–61, FERC–730; and EQRs), so that the delegated authority applicable to these forms, data collections, and reports is consistent. To effectuate this delegation, the rule amends § 375.303 by replacing existing paragraphs (f) and (g) to provide that the Chief Accountant may deny or grant, in whole or in part, motions for extension of time to file, or requests for waiver of the requirements of Annual Reports (Form Nos. 1, 1–F, 2, 2–A, and 6); Quarterly Reports (Form Nos. 3–Q and 6–Q); Annual Report of Centralized Service Companies (Form No. 60); Narrative Description of Service Company Functions (FERC–61); Report of Transmission Investment Activity (FERC–730); and EQRs, as well as, where required, the electronic filing of such information, and provide notification if one of those forms, data collections, or reports is submitted and fails to comply with applicable statutory requirements, and with all applicable Commission rules, regulations or notify a party that a submission is acceptable.

13. Further, to centralize the authority delegated to the Chief Accountant and to avoid confusion as to the responsibility for the forms, data collections, and reports discussed herein, the delegations of authority to the Director of OMTR (now OEMR) are revised by removing the parenthetical phrase in 18 CFR 375.307(h)(3) which references Form Nos. 1, 1–F, 2, 2–A, and 6, and by removing in its entirety 18 CFR 375.307(i)(8), which also references Form No. 1.

III. Information Collection Statement

14. Review by the Office of Management and Budget,[25] pursuant to section 3507(d) of the Paperwork Reduction Act of 1995,[26] is not required since this final rule does not contain new or modified information collection or recordkeeping requirements.

IV. Environmental Analysis

15. 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.[27] Part 380 of the Commission's regulations exempts certain actions from the requirement that an Environmental Analysis or Environmental Impact Statement be prepared. Included is an exemption for procedural, ministerial, or internal administrative actions.[28] As this Final Rule falls within that exemption, issuance of the Rule does not represent a major federal action having a significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act, and, thus, does not require an Environmental Analysis or Environmental Impact Statement.[29]

V. Regulatory Flexibility Certification

16. The Regulatory Flexibility Act of 1980 (RFA)[30] generally requires a description and analysis of Final Rules that will have significant economic impact on a substantial number of small entities. Rules that are exempt from the notice and comment requirements of section 553(b) of the Administrative Procedure Act are exempt from the RFA requirements. This Final Rule concerns matters of internal agency procedure and, therefore, an analysis under the RFA is not required.

VI. Document Availability

17. 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.

18. From FERC's Home Page on the Internet, this information is available in eLibrary. The full text of this document is available in 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.

19. User assistance is available for eLibrary and the FERC's Web site during normal business hours from our Help line at (202) 502–8222 or the Public Reference Room at (202) 502–8371 Press 0, TTY (202) 502–8659. E-Mail the Public Reference Room at *public.referenceroom@ferc.gov*.

VII. Effective Date and Congressional Notification

20. These regulations are effective on issuance. While the Administrative Procedure Act generally mandates that an opportunity for comment be provided when an agency promulgates regulations, notice and comment are not required where a rule, as here, relates to agency personnel or agency organization, procedure, or practice.[31] Since these regulations only concern internal agency procedure and will not affect regulated entities or the general public, notice and comment are not required.

21. The Small Business Regulatory Enforcement Fairness Act of 1996[32] requires agencies to report to Congress on the promulgation of certain Final Rules prior to their effective dates. Rules of agency procedure and practice are excluded from this notification requirement.[33] Therefore, this Final Rule will not be submitted to Congress.

[21] Order No. 667–A at P 49; *codified at* 18 CFR 366.23.

[22] Order No. 667–A; *codified at* 18 CFR 366.23(a)(3).

[23] Financial Accounting, Reporting and Records Retention Requirements Under the Public Utility Holding Company Act of 2005, 71 FR 65200 (Nov. 7, 2006), FERC Stats. & Regs. ¶ 31,229 (2006) at P 222–223.

[24] 18 CFR 141.400 (electric), 260.300 (natural gas), and 357.4 (oil), respectively.

[25] 5 CFR 1320.11.

[26] 44 U.S.C. 3507(d).

[27] Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Regulations Preambles 1986–1990 ¶ 30,783 (1987), *codified at* 18 CFR Part 380.

[28] 18 CFR 380.4(1) and (5).

[29] *Id.*

[30] 5 U.S.C. 601–12.

[31] *See* 5 U.S.C. 553(b)(A) and (B).

[32] 5 U.S.C. 801.

[33] 5 U.S.C. 804(3)(C).

List of Subjects

18 CFR 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

18 CFR 366

Electric power, Natural gas, Reporting and recordkeeping requirements.

18 CFR 375

Authority delegations (Government Agencies), Seals and insignia, Sunshine Act.

By the Commission.

Magalie R. Salas,

Secretary.

■ In consideration of the foregoing, the Commission amends parts 35, 366, and 375, Chapter I, Title 18, *Code of Federal Regulations*, as follows:

PART 35—FILING OF RATE SCHEDULES AND TARIFFS

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

Authority: 16 U.S.C. 791–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. Amend § 35.35 by revising paragraph (h)(3) to read as follows:

§ 35.35 Transmission infrastructure investment.

* * * * *

(h) * * *

(3) For good cause shown, the Commission may extend the time within which any FERC–730 filing is to be filed or waive the requirements applicable to any such filing.

* * * * *

PART 366—PUBLIC UTILITY HOLDING COMPANY ACT OF 2005

■ 3. The authority citation for part 366 continues to read as follows:

Authority: Pub. L. No. 109–58, 1261 *et seq.*, 119 Stat. 594, 972 *et seq.*

■ 4. Amend § 366.23 by revising paragraph (a)(3), to read as follows:

§ 366.23 FERC Form No. 60, annual report of service companies, and FERC–61, narrative description of service company functions.

(a) * * *

(3) For good cause shown, the Commission may extend the time within which any such report or narrative description required to be filed pursuant to paragraphs (a)(1) or (2) of this section is to be filed or waive the requirements applicable to any such report or narrative description.

* * * * *

PART 375—THE COMMISSION

■ 5. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

■ 6. Amend § 375.303 by revising paragraphs (f) and (g) to read as follows:

§ 375.303 Delegations to the Chief Accountant.

* * * * *

(f) Deny or grant, in whole or in part, motions for extension of time to file, or requests for waiver of the requirements of the following forms, data collections, and reports: Annual Reports (Form Nos. 1, 1–F, 2, 2–A, and 6); Quarterly Reports (Form Nos. 3–Q and 6–Q); Annual Report of Centralized Service Companies (Form No. 60); Narrative Description of Service Company Functions (FERC–61); Report of Transmission Investment Activity (FERC–730); and Electric Quarterly Reports, as well as, where required, the electronic filing of such information (§ 385.2011 of this chapter, Procedures for filing on electronic media, paragraphs (a)(6), (c), and (e)).

(g) Provide notification if a submitted Annual Report (Form Nos. 1, 1–F, 2, 2–A, and 6), Quarterly Report (Form Nos. 3–Q and 6–Q), Annual Report of Centralized Service Companies (Form No. 60), Narrative Description of Service Company Functions (FERC–61), Report of Transmission Investment Activity (FERC–730), or Electric Quarterly Report fails to comply with applicable statutory requirements, and with all applicable Commission rules, regulations, and orders for which a waiver has not been granted, or, when appropriate, notify a party that a submission is acceptable.

* * * * *

■ 7. Amend § 375.307 as follows:

■ A. Remove paragraphs (a), (c), (d), and (i)(8) and redesignate paragraphs (b) and (e) through (p) as paragraphs (a) through (m).

■ B. Revise redesignated paragraph (h)(3) to read as follows:

§ 375.307 Delegations to the Director of the Office of Markets, Tariffs and Rates.

* * * * *

(h) * * *

(3) Accept for filing, data and reports required by Commission orders, or presiding officers' initial decisions upon which the Commission has taken no further action, if such filings are in compliance with such orders or decisions and, when appropriate, notify the filing party of such acceptance.

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§ 375.314 [Amended]

■ 8. In § 375.314, remove the words ''Office of Market Oversight and Investigation'' and add, in their place, the words ''Office of Enforcement'' in the following sections:

A. Section 375.314 section heading;

B. Section 375.314(b);

C. Section 375.314(c); and

D. Section 375.314(d).

[FR Doc. E7–1737 Filed 2–2–07; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9311]

RIN 1545–BG10

Certain Transfers of Stock or Securities by U.S. Persons to Foreign Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations under section 367(a) of the Internal Revenue Code (Code) regarding gain recognition agreements. The final regulations are necessary to update cross-references in the current regulations. The temporary regulations are necessary to respond to comments requested in Notice 2005–74. The regulations primarily affect U.S. persons that transfer stock or securities to foreign corporations or corporations engaged in transactions that affect existing gain recognition agreements. The text of these temporary regulations also serves as the text of the proposed regulations (REG–147144–06) set forth in the notice of proposed rulemaking on this subject published elsewhere in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective February 5, 2007.

Applicability Dates: For dates of applicability, see §§ 1.367(a)–3T(f) and 1.367(a)–8T(h).

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–147144–06), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m.

to CC:PA:LPD:PR (REG–147144–06), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS Internet site at *http://www.irs.gov/regs* or via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–147144–06).

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

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These temporary regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in these regulations have been reviewed and pending receipt and evaluation of public comments, approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2056. Response to these collections of information is mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection of information displays a valid control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing the burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published elsewhere in the Proposed Rules section of this issue of the **Federal Register**.

Books and records relating to these collections of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Section 367(a)(1) provides that if, in connection with any exchange described in section 332, 351, 354, 356, or 361, a United States person (U.S. transferor) transfers property to a foreign corporation (transferee foreign corporation), such foreign corporation shall not, for purposes of determining the extent to which gain shall be recognized on such transfer, be considered to be a corporation. Section 367(a)(2), (3) and (6) provides exceptions to this general rule and grants regulatory authority to provide additional exceptions and to limit the statutory exceptions.

Exceptions to the general rule of section 367(a)(1) for certain transfers by a U.S. transferor of the stock or securities of a corporation (transferred corporation) to a transferee foreign corporation are provided in § 1.367(a)–3 (initial transfer). In some cases, these exceptions require, among other things, that the U.S. transferor file a gain recognition agreement (GRA), as provided in § 1.367(a)–8. Section 1.367(a)–3(b)(1)(ii) and (c)(1)(iii)(B). Pursuant to a GRA, the U.S. transferor agrees, among other things, to include in income the gain realized, but not recognized, on the initial transfer of the stock or securities, and pay any applicable interest, upon certain events (triggering events) that occur before the close of the fifth full taxable year following the year of the initial transfer. Section 1.367(a)–8(b)(1)(iii) and (3)(i).

Section 1.367(a)–8(e)(1) and (2) provides that dispositions of the stock or securities of the transferred corporation are generally triggering events. Similarly, § 1.367(a)–8(e)(3) provides that dispositions of substantially all (within the meaning of section 368(a)(1)(C)) of the assets of the transferred corporation are generally treated as deemed dispositions of the stock or securities of the transferred corporation and therefore are also triggering events. Finally, dispositions of stock of the transferee foreign corporation can also be triggering events. See § 1.367(a)–8(f)(2)(ii).

Notwithstanding these rules, § 1.367(a)–8 provides that various nonrecognition transactions are not triggering events if certain requirements are satisfied. For example, § 1.367(a)–8(g) provides exceptions for certain transactions involving the U.S. transferor, the transferee foreign corporation, and the transferred corporation. Although these exceptions clearly contemplate some nonrecognition transactions, the current regulations are unclear whether, and if so how, the exceptions apply to various asset reorganizations involving section 361 exchanges by the U.S. transferor, the transferee foreign corporation, and the transferred corporation.

Section 1.367(a)–8 also provides that certain nonrecognition transactions are not triggering events because the GRA is terminated without further effect. For example, § 1.367(a)–8(h)(3) lists certain nonrecognition transactions that terminate the GRA, provided that immediately after the transaction the basis in the transferred stock is not greater than the U.S. transferor's basis in the stock that, immediately before the initial transfer, necessitated the GRA.

On September 28, 2005, the IRS and the Treasury Department issued Notice 2005–74 (2005–42 IRB 726), see § 601.601(d)(2), which announced the intention to amend the regulations under section 367(a) to address the effect on GRAs of certain asset reorganizations involving the U.S. transferor, the transferee foreign corporation, and the transferred corporation. The notice was issued in response to comments that the current regulations do not adequately address various asset reorganizations involving the U.S. transferor, the transferee foreign corporation, and the transferred corporation. Notice 2005–74 addressed the most common of these reorganizations and requested comments on other transactions (for example, certain upstream and downstream reorganizations).

Notice 2005–74 generally provided that, if particular requirements are satisfied, certain asset reorganizations of the U.S. transferor, the transferee foreign corporation, or the transferred corporation will not constitute triggering events. A key premise of the notice was that the covered transactions involved situations where the ability to collect tax is sufficiently preserved in the event of a subsequent trigger of the GRA (that is, the obligor under the GRA remains unchanged as a result of the asset reorganization). In light of taxpayer comments and further study, however, the IRS and Treasury Department have determined that there are additional instances where the ability to collect tax after these asset reorganizations and certain other nonrecognition transactions (as defined in section 7701(a)(45)) is sufficiently preserved so that these transactions also should not constitute a triggering event if particular requirements are met. The IRS and Treasury Department also have concluded that other portions of the current section 367(a) regulations addressing GRAs should be revised.

Explanation of Provisions

A. Overview

The temporary regulations adopt the rules announced in Notice 2005–74, with a number of modifications discussed below. Notice 2005–74 only provided guidance on a particular range of transactions, namely certain asset reorganizations, that are insufficiently addressed in the current regulations. The temporary regulations respond to comments and provide guidance on the effect on GRAs of transactions that are

not addressed in the current regulation or Notice 2005–74. The temporary regulations also make additional changes to the existing regulations. For example, the temporary regulations modify and clarify procedural requirements attendant to entering into GRAs. Finally, the temporary regulations reorganize the current regulation so that distinct paragraphs address triggering events, exceptions to triggering events, and events that terminate a GRA. The IRS and Treasury Department continue to consider issuing additional public guidance that further revises § 1.367(a)–8.

B. Effect of Certain Asset Reorganizations and Nontaxable Liquidations on Gain Recognition Agreements

1. Transfers of Transferee Foreign Corporation Stock by U.S. Transferor

(a) Asset Reorganizations

Notice 2005–74 provided that if, in a section 361 transaction, a U.S. transferor transfers all or a portion of the stock or securities of the transferee foreign corporation to an acquiring domestic corporation (successor U.S. transferor) pursuant to certain asset reorganizations, the exchanges made pursuant to the asset reorganization will trigger the gain recognition agreement, unless various conditions are satisfied. These conditions are: (1) The U.S. transferor must have been a member of a consolidated group (original consolidated group) at the time of the initial transfer and the common parent of such group (original common parent) entered into the original GRA; (2) immediately after the asset reorganization, the successor U.S. transferor is a member of the original consolidated group (consolidation continuity requirement); and (3) the original common parent enters into a new GRA with respect to the transfer subject to the original GRA, modified by substituting the successor U.S. transferor for the original U.S. transferor. A notice of the asset reorganization also must be provided with the successor U.S. transferor's next annual certification.

For this purpose, an asset reorganization is defined as a reorganization described in section 368(a)(1) involving the transfer of assets by a corporation to another corporation pursuant to section 361, except that such term shall include reorganizations described in section 368(a)(1)(D) or (G) only if the requirements of section 354(b)(1)(A) and (B) are met.

The IRS and Treasury Department received several comments that the consolidation continuity requirement was unduly restrictive because it focused on maintaining the same obligor for a GRA following the asset reorganization. Commentators asserted that an equal or better ability to collect the tax due as a result of a triggering event subsequent to such a reorganization may be preserved in certain instances where the consolidation continuity requirement would not be satisfied. However, these same commentators noted that if there were no consolidation continuity requirement, such that a U.S. transferor that is a member of a consolidated group at the time of the initial transfer could be acquired in a later asset reorganization by a corporation (successor corporation) that is not a member of such group without triggering the GRA, the actions of the successor corporation could inappropriately affect the liability of the original consolidated group under the GRA. As a result, the commentators requested that the consolidation continuity requirement be curtailed or eliminated, while at the same time not inappropriately exposing the original consolidated group to the liabilities arising from the actions of the successor corporation.

The IRS and Treasury Department generally agree with these views. Therefore, the temporary regulations eliminate the consolidation continuity requirement and address concerns about the liability of a consolidated group that disposes of a U.S. transferor subject to a GRA.

Specifically, the temporary regulations provide that when a U.S. transferor transfers all or a portion of the stock of the transferee foreign corporation to an acquiring corporation in an asset reorganization, the exchanges made pursuant to the reorganization will not be triggering events and the GRA will terminate without further effect, but only if certain requirements are satisfied. These requirements ensure that the ability to collect tax is sufficiently preserved and that the terms of the GRA are administrable.

First, the acquiring corporation (successor U.S. transferor) must be a domestic corporation, and the successor U.S. transferor or the common parent of the consolidated group of which the successor U.S. transferor is a member (as applicable) must enter into a new GRA to recognize gain with respect to the initial transfer during the remaining term of the original GRA (with certain modifications).

Second, with its next certification, the successor U.S. transferor must provide to the IRS the new GRA, notice of the transaction, and Form 8838 (Consent to Extend Time to Assess Tax Under Section 367) to extend the period of assessment of tax on the initial transfer.

Third, unless the successor U.S. transferor is a member of the same consolidated group of which the U.S. transferor was a member immediately before the asset reorganization, the person entering into the new GRA must elect that, if the new GRA is triggered in whole or in part, the person will include the required amount in the year of the triggering event (as opposed to the year of the initial transfer). Requiring an inclusion in these circumstances only in the year of a subsequent triggering event when the U.S. transferor is no longer owned by the same consolidated group is necessary, among other reasons, because the successor U.S. transferor may not have existed in the year of the initial transfer. In such a case, the successor U.S. transferor would not be able to amend a return for the year of the initial transfer to include any tax due as a result of a subsequent triggering event. Moreover, the requirement is appropriate even if the successor U.S. transferor did exist in the year of the initial transfer because its tax year for the year of the initial transfer may be closed. In sum, this requirement assures the GRA rules are administrable and that the ability to collect tax is sufficiently preserved. If these requirements are met, the original GRA will terminate without further effect.

The IRS and Treasury Department have decided to eliminate the consolidation continuity requirement because these three requirements adequately address the government's concern in this area by, among other things, preserving the ability to collect the tax due as a result of a triggering event subsequent to a covered asset reorganization. In many asset reorganizations, the successor U.S. transferor will have an equal or greater ability to pay the tax due in the case of a subsequent triggering event than would the original U.S. transferor. Furthermore, the current regulations generally do not impose any financial or other requirements on the ability of a U.S. transferor to enter into a GRA. But see § 1.367(a)–8(d) (imposing a security requirement in certain situations). Consequently, the IRS and Treasury Department believe that even if in some circumstances an acquisition of a U.S. transferor may affect the ability to collect the tax due as a result of a subsequent triggering event (for example, the U.S. transferor is acquired from a consolidated group by another consolidated group whose value is less

than that of the original consolidated group), the requirements above nonetheless sufficiently preserve the ability to collect the tax that would be due if the new GRA were triggered and ensure that the terms of the GRA are administrable.

As described in this section, the temporary regulations require that the acquirer be a domestic corporation because, among other reasons, the IRS and Treasury Department are concerned that if a foreign acquirer is allowed to enter into a new GRA, it may be difficult for the IRS to collect any tax due in the event of a subsequent trigger of the GRA. However, the IRS and Treasury Department continue to study whether it would be appropriate to allow a domestic corporate shareholder of the U.S. transferor to enter into a new GRA when a U.S. transferor is acquired by a foreign corporation in an asset reorganization under conditions similar to those provided in § 1.367(a)–3T(e). The IRS and Treasury Department welcome more detailed comments on specific approaches that could extend these rules to foreign acquisitions of the U.S. transferor.

(b) Nontaxable Liquidations

The current regulations provide that, if a corporate U.S. transferor liquidates in a transaction that qualifies under sections 332 and 337, the GRA is triggered unless (1) The U.S. transferor filed a consolidated income tax return with a U.S. parent corporation both in the year of the initial transfer and the year of the liquidation, and (2) the common parent enters into a new GRA, with certain modifications. Section 1.367(a)–8(f)(2)(ii).

The temporary regulations provide a similar rule. However, the temporary regulations eliminate the consolidation continuity requirement, so the U.S. transferor is no longer required to be a member of the same consolidated group in the year of the initial transfer and the year of the liquidation. Consequently, the temporary regulations provide that where a U.S. transferor disposes of the stock of the foreign transferee corporation in a liquidation that qualifies under sections 332 and 337, the disposition will not constitute a triggering event provided that: (1) The distributee (successor U.S. transferor) is a domestic corporation described in section 332(b)(1); (2) the successor U.S. transferor or, if the successor U.S. transferor is a member of a consolidated group, the common parent of the successor U.S. transferor's group, enters into a new GRA covering the remaining term of the original GRA (with certain modifications); (3) where the successor U.S. transferor is not a member of the original consolidated group immediately after the liquidation, the person entering into the GRA agrees that if there is a subsequent triggering event, the taxpayer will recognize the gain in the year of the triggering event (as opposed to the year of the initial transfer); and (4) the successor U.S. transferor provides, with its next annual certification, Form 8838 to extend the period of assessment of the tax on the initial transfer. If these conditions are satisfied, the original GRA will terminate without further effect.

For reasons similar to those discussed above in the context of asset reorganizations involving the U.S. transferor, the IRS and Treasury Department believe that the temporary regulations sufficiently address the government's concerns in this area, including preserving the ability to collect tax due as a result of a subsequent triggering event. As a result, it is not necessary for the U.S. transferor to be a member of the same consolidated group in the year of the transfer and the year of the liquidation. In addition, the IRS and Treasury Department believe that it is appropriate to require an inclusion in the year of a subsequent triggering event if the successor U.S. transferor was not a member of a consolidated group with the U.S. transferor immediately before the liquidation for reasons similar to those discussed regarding asset reorganizations involving the U.S. transferor.

2. Transfers of Transferred Corporation Stock or Securities by Transferee Foreign Corporation in an Asset Reorganization

Notice 2005–74 provided that if, in a section 361 transaction, a transferee foreign corporation transfers stock or securities of a transferred corporation to a foreign acquiring corporation in an asset reorganization, the exchanges made pursuant to the reorganization will be a triggering event, unless certain conditions are met. These conditions require that the U.S. transferor, common parent, or new common parent corporation, as applicable, enter into a new GRA, with certain modifications. In addition, the U.S. transferor also is required to provide the new GRA and a notice of the asset reorganization with its next annual certification.

For purposes of this rule, Notice 2005–74 retained the same definition of asset reorganization as used for the provision dealing with transfers of transferee corporation stock, with certain modifications. Specifically, Notice 2005–74 excludes the following asset reorganizations: (1) Triangular asset reorganizations described in § 1.358–6(b); and (2) asset reorganizations where, after the reorganization, the same corporation is both the transferee foreign corporation (or successor transferee foreign corporation, as applicable) and the transferred corporation (or the successor transferred corporation, as applicable).

The temporary regulations generally incorporate these rules and provide that if the above conditions are satisfied the original GRA will terminate without further effect. However, even if these conditions are satisfied, the temporary regulations provide specific gain recognition rules if the transferee foreign corporation transfers stock or securities of the transferred corporation in an asset reorganization and the U.S. transferor recognizes gain under section 356(a)(1). See section C of this preamble.

As noted in this preamble, Notice 2005–74 excluded from the definition of the term asset reorganization any triangular asset reorganizations of the transferee foreign corporation and transferred corporation and certain upstream and downstream reorganizations. In response to comments and upon further study by the IRS and Treasury Department, the temporary regulations address the treatment of triangular asset reorganizations of the transferee foreign corporation and certain upstream and downstream reorganizations. See sections G and H of this preamble.

3. Transfers of Substantially All of a Transferred Corporation's Assets

Notice 2005–74 provides that if a transferred corporation transfers substantially all its assets in an asset reorganization, the exchanges made pursuant to the reorganization will be a triggering event, unless certain conditions are met. These conditions require that the U.S. transferor, U.S. parent corporation or new U.S. parent corporation, as applicable, enters into a new GRA, with certain modifications. The U.S. transferor also is required to provide the new GRA and the notice of the asset reorganization with its next annual certification. The definition of asset reorganization is the same as that used in asset reorganizations involving the transferee foreign corporation.

The temporary regulations generally incorporate these rules and provide that if these conditions are met, the original GRA will terminate without further effect. However, even if these conditions are satisfied, the temporary regulations provide specific gain recognition rules (described in section C of this preamble)

if the transferred corporation transfers substantially all of its assets in an asset reorganization and the transferee foreign corporation recognizes gain under section 356(a)(1). In addition, although the definition of asset reorganization excludes triangular asset reorganizations and downstream mergers of the transferee foreign corporation, the temporary regulations address the tax treatment of these transactions. See sections G and H of this preamble.

C. Special Rules Regarding Nonrecognition Transactions Involving Money or Other Property

The current regulations provide that certain nonrecognition transactions are not triggering events if particular requirements are satisfied. However, commentators have stated that the current regulations provide that certain nonrecognition transactions at the transferee foreign corporation or transferred corporation level in which any money or other property (as described in sections 351(b) or 356(a)) is received in exchange are triggering events without exception. These commentators assert that it is not appropriate to trigger an entire GRA as a result of receiving a relatively minor amount of ''boot'' in the nonrecognition transaction. These commentators also note that the current regulations do not address clearly the treatment of transfers of transferee foreign corporation stock by a U.S. transferor in a nonrecognition transaction in which the U.S. transferor receives boot.

The IRS and Treasury Department agree that the receipt of boot under section 351(b) or 356(a)(1) in connection with the disposition of transferred corporation stock or securities, or substantially all of a transferred corporation's assets, should not automatically trigger all the gain under a GRA. Accordingly, the temporary regulations provide that if certain conditions are met, the entire GRA will not be triggered when a transferee foreign corporation disposes of transferred corporation stock or securities in a nonrecognition transaction simply because the transferee foreign corporation receives boot.

However, the IRS and Treasury Department believe that the GRA should be triggered to the extent that gain would be recognized in such a transaction by a transferee foreign corporation or a transferred corporation, before taking into account basis increases that may apply to the stock or securities disposed of as a result of triggering the GRA. The current, as well as the temporary regulations, provide that if a U.S. transferor is required to recognize gain because of a triggering event, then certain basis increases are allowed as of the date of the initial transfer. Therefore, in determining the amount of gain that is recognized under the GRA in such a transaction, the temporary regulations provide that the U.S. transferor first must recognize that amount of gain that the transferee foreign corporation or transferred corporation would have recognized under 351(b) or 356(a)(1), before taking into account the basis increases that are allowed under the regulations as of the date of the initial transfer. Second, if the U.S. transferor has not recognized all the gain realized, but not recognized, on the initial transfer, then its new GRA will reflect any remaining unrecognized gain on the initial transfer. Third, after the consequences of the transaction are determined under the temporary regulations, then the taxpayer must determine the amount of gain, if any, that the transferee foreign corporation or transferred corporation must recognize under 351(b) or 356(a)(1). In determining the amount to be recognized, the basis of the stock disposed of shall reflect the basis increase allowed as a result of the gain recognized under the GRA by the U.S. transferor.

This special rule limiting recognition of gain in otherwise nonrecognition transactions involving boot applies only if the U.S. transferor complies with the otherwise applicable requirements of the exception to recognizing all of the gain subject to the GRA when there is a triggering event. This special rule is intended to require the U.S. transferor to recognize only an appropriate amount of income, without automatically triggering the entire GRA.

The IRS and Treasury Department also believe that additional guidance is needed on the treatment of transfers of transferee foreign corporation stock by a U.S. transferor in a nonrecognition exchange in which the U.S. transferor receives boot. Therefore, the temporary regulations treat the disposition of transferee foreign corporation stock in a nonrecognition transaction by the U.S. transferor when the U.S. transferor receives money or other property as described in section 351(b) or 356(a) as a termination of the GRA in whole or in part. Consequently, if a new GRA is filed, then the U.S. transferor will recognize gain under the new GRA in the event of a subsequent triggering event in the amount of the gain realized, but not recognized, in the initial transfer less any gain recognized by the U.S. transferor under section 351(b) and 356(a)(1) in connection with the nonrecognition transaction. If, however, a new GRA is not filed in connection with the nonrecognition transaction, then the original GRA is triggered, and the U.S. transferor must recognize the gain that was realized, but not recognized, on the initial transfer less any gain recognized by the U.S. transferor under section 351(b) or 356(a)(1) in connection with the nonrecognition transaction.

D. Effect of Consolidation and Deconsolidation on Gain Recognition Agreements

Commentators noted that the current regulation does not adequately address the effect on GRAs of certain transactions involving consolidated groups. For example, the commentators noted that it is not clear what effect a U.S. transferor becoming a member of a consolidated group has on an existing GRA. The current regulations do provide, however, that if a U.S. transferor is a member of a consolidated group at the time of the initial transfer and ceases to be a member of the group during the term of the GRA, the common parent of such group that entered into the GRA continues to be liable under the original GRA. Section 1.367(a)–8(b)(5)(ii). Several commentators have raised concerns that such a result is not appropriate because the actions of an acquirer could unilaterally affect the liability of the original consolidated group under the GRA.

The IRS and Treasury Department agree that the effect of these transactions needs to be clarified and rationalized. Accordingly, in response to these concerns, the temporary regulations provide specific rules addressing these transactions. In particular, the IRS and Treasury Department believe that the U.S. parent corporation of a consolidated group should not continue to be liable under a GRA with respect to a U.S. transferor that is no longer a member of such group.

The temporary regulations provide that when a U.S. transferor becomes a member of a consolidated group (including a transaction where it joins such a group after being a member of another consolidated group) the transaction is a triggering event unless certain conditions are met. If these conditions are satisfied, the original GRA is terminated without further effect. These conditions require the U.S. parent corporation of the consolidated group that the U.S. transferor joins (1) To enter into a new GRA for the remaining term of the original GRA and (2) to elect to recognize gain in the taxable year of any subsequent

triggering event (as opposed to the year of the initial transfer). A notice of the consolidation transaction must also be filed with the next annual certification. The IRS and Treasury Department believe that these requirements ensure that a GRA remains in effect after a U.S. transferor joins a consolidated group. These requirements are also consistent with § 1.1502–77(a), which provides that the common parent is the sole agent for each member of the consolidated group.

In addition, the temporary regulations also cover situations in which a U.S. transferor ceases to be a member of a consolidated group and does not become a member of a new consolidated group. In these cases, the transaction is a triggering event, unless certain conditions are met. If these conditions are satisfied, the original GRA is terminated without further effect. These conditions require the U.S. transferor (1) To enter into a new GRA for the remaining term of the original gain recognition agreement and (2) to elect that in the event of a subsequent triggering event the U.S. transferor will recognize gain in the year of the triggering event. The U.S. transferor must also provide notice of the deconsolidation with the next annual certification.

E. U.S. Transferor Goes Out of Existence in a Transaction Giving Rise to a Gain Recognition Agreement

The current regulation provides that when a U.S. transferor goes out of existence in a transaction giving rise to a GRA, gain generally qualifies for nonrecognition treatment only if the U.S. transferor is owned by a single U.S. parent corporation, the U.S. transferor and its parent corporation file a consolidated Federal income tax return for the taxable year that includes the transfer, and the parent of the consolidated group enters into a GRA. Section 1.367(a)–8(f)(2)(i). The current regulation provides that a U.S. transferor that is controlled by five or fewer domestic corporations may request a ruling that the transaction qualifies for nonrecognition treatment. Section 1.367(a)–8(f)(2)(i).

Notice 2005–74, in turn, provides a rule that treats all members of the U.S. parent's consolidated group for the taxable year that includes the transfer as a single corporation for purposes of § 1.367(a)–8(f)(2)(i). Thus, a U.S. transferor that is not directly owned by a single U.S. parent corporation may still qualify for nonrecognition, without requesting a ruling, when the U.S. transferor goes out of existence in a transaction giving rise to a GRA, if it is indirectly wholly owned by members of a consolidated group.

The IRS and Treasury Department believe it is necessary to provide additional guidance on how GRAs are entered into when a U.S. transferor is controlled by multiple corporate shareholders with which the U.S. transferor does not join in filing a consolidated return. Moreover, the IRS and Treasury Department believe that in this area a single rule should apply both in consolidated and nonconsolidated situations. As a result, the temporary regulations provide unified rules, replacing both the current regulations and Notice 2005–74, in situations in which a U.S. transferor goes out of existence in a transaction giving rise to a GRA.

The temporary regulations generally provide that when a U.S. transferor goes out of existence in a transaction giving rise to a GRA, the gain may qualify for nonrecognition treatment if (1) The requirements of section 367(a)(5) and any regulations under that paragraph are satisfied such that five or fewer domestic corporations control the U.S. transferor and appropriate basis adjustments are made, (2) the requirements of § 1.367(a)–3(c)(1) are satisfied if the transferred corporation is domestic, (3) all domestic corporate shareholders of the U.S. transferor that own at least five percent of either the total voting power or the total fair market value of the stock of the transferee foreign corporation immediately after the transaction enter into GRAs with respect to their pro rata share of the gain in the transferred stock or securities that designate such domestic corporate shareholders as U.S. transferors for purposes of §§ 1.367(a)–3(b) and (c) and 1.367(a)–8T, and (4) all domestic corporate shareholders that enter into GRAs elect to recognize any gain upon a subsequent trigger of the GRA in the year of the triggering event.

The temporary regulations eliminate the current regulation's option to request a private letter ruling because guidance is now provided on how GRAs are entered into by five or fewer domestic corporations that control a U.S. transferor satisfying section 367(a)(5). In addition, the temporary regulations clarify that the terms of section 367(a)(5) must be satisfied (along with other requirements) to avoid gain recognition on the U.S. transferor's section 361 transfer of stock or securities to a foreign acquiring corporation. Therefore, the rule in Notice 2005–74 treating consolidated group members as a single corporation is incorporated by reference to section 367(a)(5), which provides that all members of the same affiliated group are treated as one corporation. Lastly, because these rules address how gain recognition may be avoided under section 367(a)(1) on the initial transfer itself, rather than the effect of subsequent transactions on existing GRAs, these rules have been removed from § 1.367(a)–8 and included instead in § 1.367(a)–3T(e).

F. Transfers of Transferred Corporation's Assets

Under the current regulations, dispositions of substantially all of the assets of the transferred corporation (within the meaning of section 368(a)(1)(C)) are generally treated as deemed dispositions of the stock or securities of the transferred corporation and therefore are triggering events. Section 1.367(a)–8(e)(3). In Revenue Ruling 57–518 (1957–2 CB 253), see § 601.601(d)(2), the IRS stated that what constitutes ''substantially all of the properties'' as the term is used in section 368(a)(1)(C) ''will depend upon the facts and circumstances in each case rather than upon any particular percentage.'' However, Revenue Procedure 77–37 (1977–2 CB 586), see § 601.601(d)(2), provides that for ruling purposes, the transfer by a corporation of 70 percent of its gross assets or 90 percent of its assets net of liabilities will generally be deemed to be a transfer of substantially all of the assets of a corporation.

Commentators have noted that defining substantially all by reference to section 368(a)(1)(C) may not be appropriate in the context of the GRA rules. The IRS and Treasury Department, however, generally believe that defining ''substantially all'' for these purposes by reference to the definition of the term under section 368(a)(1)(C) is appropriate. Nonetheless, the IRS and Treasury Department believe that it is important to clarify the scope of the term ''substantially all,'' as used in the current regulation and the temporary regulations. One commentator suggested that if a transferred corporation disposes of less than 70 percent of its gross assets or 90 percent of its assets net of liabilities, the transfer will not be treated as a disposition of substantially all of the assets of the transferred corporation for purposes of § 1.367(a)–8(e)(3), and thus, such a disposition would not trigger a GRA. This suggestion is not correct. If, upon considering the facts and circumstances, a transferred corporation has disposed of substantially all its assets, such a transaction is a triggering event, even if the transferred corporation disposes of less than 70

percent of a corporation's gross assets or 90 percent of its assets net of liabilities. The ''substantially all'' safe harbor provided in Revenue Procedure 77–37 is intentionally high so that the IRS does not need to engage in a factually detailed analysis before issuing a letter ruling. As a result, in the context of GRAs, the Revenue Procedure's threshold does not mean that a disposition of substantially all the assets does not occur upon the disposition of a lesser amount of assets. Therefore, the temporary regulations provide that whether a transferred corporation has disposed of substantially all of its assets is determined under all the facts and circumstances.

G. Transactions That Terminate the GRA

1. Taxable Dispositions of Transferee Foreign Corporation Stock

Section 1.367(a)–8(h)(1) provides that a GRA will terminate, in whole or in part, as a result of certain taxable dispositions of the transferee foreign corporation stock by the U.S. transferor. A key premise for this termination rule is that the basis in the transferee foreign corporation stock received by the U.S. transferor in the initial transfer is assumed to reflect the basis in the transferred stock or securities.

The IRS and Treasury Department continue to believe this termination rule is appropriate. As a result, the temporary regulations generally retain this rule. However, the temporary regulations modify the termination rule to ensure that a GRA terminates only when the transferee foreign corporation stock disposed of in fact reflects the basis of the transferred stock or securities. This termination rule only applies to transferee foreign corporation stock that is received (or deemed received) in the initial transfer. The IRS and Treasury Department understand that in some cases, taxpayers may take the position that the basis in the transferee foreign corporation stock does not reflect the basis of the transferred stock or securities. For example, taxpayers may take the position that the basis in such transferee foreign corporation stock received also reflects the basis of other property that had a built-in loss when it was transferred to the transferee foreign corporation. Thus, the termination rule in the temporary regulations will apply only when the basis of the transferee foreign corporation stock received (or deemed received) in the initial transfer properly reflects the sum of the aggregate basis of the transferred stock or securities immediately before the initial transfer, plus any increase in the basis of such stock or securities as a result of recognizing gain on the transfer. In addition, for purposes of this basis determination, basis increases to the transferee foreign corporation stock as a result of income inclusions (for example, pursuant to section 961) shall not be taken into account.

In cases where the basis of the relevant transferee foreign corporation stock exceeds the basis of the transferred stock or securities, however, the temporary regulations allow the U.S. transferor to take advantage of this termination rule if it elects to reduce its basis in the transferee foreign corporation stock such that it does not exceed the basis it had in the transferred stock or securities. If the U.S. transferor makes this election, the basis reduction will be effective immediately before the taxable disposition that terminates the GRA. In addition, if the U.S. transferor makes this election, it may increase its basis in other stock of the transferee foreign corporation it holds, if any, by a corresponding amount but not above the fair market value of such stock.

Similar rules apply in the case of partial dispositions of transferee foreign corporation stock and dispositions of transferee foreign corporation stock in nonrecognition transactions in which a portion of the realized gain is recognized.

2. Certain Inbound Distributions or Transfers of the Transferred Stock

Section 1.367(a)–8(h)(3) provides that a distribution of the transferred stock in a transaction qualifying under section 355 or sections 332 and 337 will terminate the GRA if the U.S. transferor's basis in the transferred stock or securities that it receives in the section 355 or 332 and 337 transaction does not exceed the basis the U.S. transferor had in the transferred stock or securities immediately before the initial transfer. In response to comments, however, the temporary regulations allow the U.S. transferor to take advantage of this termination rule if it elects to reduce the basis of the transferred stock or securities if the basis exceeds the basis the U.S. transferor had in the transferred stock or securities immediately before the initial transfer. For purposes of this basis determination, basis increases to the transferred stock as a result of income inclusions (for example, pursuant to section 961) shall not be taken into account. If the U.S. transferor elects to reduce basis in the transferred stock or securities it receives, the U.S. transferor shall increase its basis in other transferee foreign corporation stock (if any) by a corresponding amount but not above the fair market value of such stock.

Although the temporary regulations generally provide that a GRA terminates in certain section 332 liquidations of the transferee foreign corporation, the IRS and Treasury Department are studying to what extent this rule should apply when the transferee foreign corporation has a minority shareholder and therefore recognizes gain under section 336 in connection with the section 332 liquidation. As noted in the request for comments, although the IRS and Treasury Department generally believe it is appropriate to terminate entirely the GRA in a section 332 liquidation, in other circumstances it may not be appropriate. For example, if after an initial transfer, a wholly-owned transferee foreign corporation issues a minority interest to a foreign shareholder, completely terminating the GRA upon a section 332 liquidation of the transferee foreign corporation does not account for the fact that the U.S. transferor has indirectly disposed of up to 20 percent of its interest in the transferred stock or securities. Therefore, when the temporary regulations are finalized, the IRS and Treasury Department may address the effect that section 336 gain has on a gain recognition agreement when a transferee foreign corporation with a minority shareholder liquidates under section 332.

The temporary regulations expand the current rule to terminate GRAs when certain U.S. persons other than the original U.S. transferor receive the stock or securities that was transferred in the initial transfer. For example, if the transferred corporation is distributed to a domestic corporation or U.S. individual other than the U.S. transferor in a section 355 ''split off,'' the GRA would terminate if the domestic corporation or U.S. individual receives the transferred stock or securities with a basis that is not greater than the basis the U.S. transferor had in the transferred stock or securities immediately before the initial transfer.

Finally, and in response to comments requested in Notice 2005–74, the temporary regulations also expand the current rule to provide that the GRA will terminate in additional transactions where the U.S. transferor or a domestic corporation receives the transferred stock or securities with a basis that is not greater than the basis the U.S. transferor had in the transferred stock or securities immediately before the initial transfer. These transactions are upstream asset reorganizations where the U.S. transferor acquires the assets of

the transferee foreign corporation, downstream asset reorganizations where the transferred corporation acquires the assets of the transferee foreign corporation, and certain other asset reorganizations where a domestic corporation acquires the assets of the transferee foreign corporation. Consequently, the temporary regulations generally provide that the GRA terminates in particular circumstances when the transferred stock or securities are held with the correct basis by certain U.S. persons, even if the U.S. person is not the original U.S. transferor.

However, the IRS and Treasury Department believe that it is not appropriate for the GRA to terminate when the transferred stock or securities may then be disposed of, directly or indirectly, by a foreign shareholder without being subject to U.S. tax. Therefore, this termination rule is limited to section 332 liquidations, section 355 distributions, and asset reorganizations where the domestic corporation that holds the transferred stock or securities after the transaction is either the U.S. transferor or a member of the same consolidated group of which the U.S. transferor is then a member. The IRS and Treasury Department continue to study whether it would be appropriate to expand the scope of the rule to transactions where the acquirer is not a member of the same consolidated group of which the U.S. transferor is then a member and request comments regarding such a rule.

H. Triangular Reorganizations of Transferee Foreign Corporation and Transferred Corporation

Notice 2005–74 provides rules that allow a U.S. transferor to avoid gain recognition on certain asset reorganizations of the transferee foreign corporation and transferred corporation. However, Notice 2005–74 restricts the definition of ''asset reorganization'' to exclude triangular asset reorganizations of the transferee foreign corporation and transferred corporation.

In response to comments and after further study, the temporary regulations address the treatment of certain triangular asset reorganizations. Specifically, they provide that if the transferee foreign corporation or transferred corporation is acquired in a triangular asset reorganization, the exchanges made pursuant to the reorganization will not be triggering events if certain requirements are satisfied. For purposes of this rule, a triangular asset reorganization is limited to a transaction in which the acquiring subsidiary is foreign. The additional requirements are as follows. First, the U.S. transferor or common parent must enter into a new GRA to recognize gain with respect to the initial transfer during the remaining term of the original GRA, with certain modifications. In the case of a triangular asset reorganization of the transferee foreign corporation, the U.S. transferor also must make certain designations depending on whether the parent corporation of the foreign acquiring subsidiary is foreign or domestic and depending on the type of triangular asset reorganization. Finally, the U.S. transferor must provide notice of the transaction with its next annual certification.

I. Other Changes

The current regulations refer to ''stock of the transferred corporation'' in some paragraphs but refer to ''stock or securities of the transferred corporation'' in other paragraphs. The temporary regulations refer to ''stock or securities of the transferred corporation'' because either stock or securities, or both, may be subject to a GRA when transferred to a transferee foreign corporation by a U.S. person. In contrast, the temporary regulations generally refer only to stock, and not securities, of the transferee foreign corporation. The rules applying to a disposition of the transferee foreign corporation are concerned primarily with transactions in which the U.S. transferor loses or decreases its control of the transferee foreign corporation, which does not occur when a U.S. transferor disposes of securities of the transferee foreign corporation.

The current regulation provides a reasonable cause exception to triggering a GRA when the person required to file the GRA fails to comply in any material respect with the terms of a GRA, or when the person fails to meet the timeliness requirement for submitting a GRA. The temporary regulations retain this reasonable cause exception but provide additional guidance on how the person should submit a request for reasonable cause relief. The temporary regulations also provide that the Area Director or Director of Field Operations, as applicable, shall notify the person in writing within 120 days of the filing if the person will be granted reasonable cause relief or if additional time is required to make the determination. The 120-day period runs from the date that the IRS notifies the person that its request has been received. Once this period begins, the person shall be deemed to have established reasonable cause if it is not again notified within 120 days.

Effective Dates

With the exception of the special boot rules described in section C of this preamble, these temporary regulations apply to GRAs filed with respect to transfers of stock or securities occurring on or after March 7, 2007. The boot rules described in section C of this preamble apply to GRAs filed with respect to transfers of stock or securities occurring on or after 180 days after February 5, 2007. However, GRAs that are filed after March 7, 2007 in connection with transactions entered into pursuant to a contract that was binding before February 5, 2007 are not subject to these regulations, but taxpayers may elect to apply the rules of these regulations to such a GRA. For all open years, taxpayers may apply rules of these regulations that were not already effective under § 1.367(a)–8 to GRAs filed before March 7, 2007. Similar effective date rules are provided for those transfers discussed in section E of this preamble (regarding a U.S. transferor that goes out of existence in a transaction giving rise to a GRA).

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that 5 U.S.C. 553(b) and (d) do not apply to these regulations. For applicability of the Regulatory Flexibility Act, please refer to the cross-referenced notice of proposed rulemaking published elsewhere in this **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Request for Comments

The IRS and Treasury Department are considering issuing subsequent public guidance to address additional issues under section 367(a). Accordingly, comments are requested regarding the application of § 1.367(a)–8, including whether other transactions should be excepted from being treated as triggering events pursuant to rules similar to those contained in the temporary regulations. For example, comments are requested as to the most appropriate treatment of divisive reorganizations qualifying under section 368(a)(1)(D) or (G), involving the U.S. transferor corporation, the transferee foreign corporation, and the transferred corporation. Comments also are

requested on how a GRA is affected by a subsequent transaction to which section 304 applies involving transferee foreign corporation stock or transferred corporation stock. The IRS and Treasury Department believe that the rules in the temporary regulations generally deal with many transactions to which section 304 applies but request specific comments on any issues raised.

In addition, the IRS and Treasury Department request comments on the rule in § 1.367(a)–8T(b)(3)(iii), which imposes interest on the additional tax, if any, that is required to be paid as a result of a triggering event. Specifically, comments are requested on whether interest should be imposed even when no additional tax is ultimately due as a result of a triggering event because, for example, a taxpayer has sufficient net operating losses to offset the tax that would otherwise be due as a result of a triggering event. If an interest charge is not required in such a case, a taxpayer may be viewed as inappropriately benefiting from deferring the realized but unrecognized gain on the initial transfer until a later year. However, there are other instances where the current regulations clearly permit such a benefit (for example, under § 1.367(a)–8(h)(1)(i) in certain taxable dispositions of the stock of the transferee foreign corporation).

As described in section B.1.a of this preamble, comments are requested on whether a GRA should not be triggered, if certain conditions similar to those provided in § 1.367(a)–3T(e) are met, when a U.S. transferor is acquired by a foreign corporation in an asset reorganization. Specifically, the IRS and Treasury Department request comments on how to reconcile the terms of the GRA that would be filed pursuant to § 1.367(a)–3T(e) with the terms of a new GRA that would be filed to avoid triggering the original GRA. For example, the transferee foreign corporation under the outstanding GRA (and under the new GRA filed to avoid triggering the outstanding GRA) would be the transferred corporation with respect to the GRA filed pursuant to § 1.367(a)–3T(e).

Finally, and as described in section G.2 of this preamble, the IRS and Treasury Department are studying to what extent the GRA termination rule should apply when the transferee foreign corporation liquidates in a transaction described in section 332 but also recognizes gain under section 336 because of a minority shareholder. Comments are requested on how the termination rule should address such a transaction, taking into consideration potentially different results depending on whether the minority shareholder is also subject to a GRA or is, for example, instead a foreign person who was issued transferee foreign corporation stock after the initial transfer.

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

Drafting Information

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

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.367(a)–3T(e) also issued under 367(a) and (b).* * *

Section 1.367(a)–8T also issued under 367(a) and (b).* * *

■ **Par. 2.** For each entry in the table in the ''Section'' column, remove the language in the ''Remove'' column and add the language in the ''Add'' column in its place.

Section	Remove	Add
1.367(a)–3(d)(3), Example 1(ii), fourth sentence	§ 1.367(a)–8(e)	§ 1.367(a)–8T(d)(1).
1.367(a)–3(d)(3), Example 1(ii), fourth sentence	§ 1.367(a)–8(b)(1)(vii)	§ 1.367(a)–8T(b)(1)(vii).
1.367(a)–3(d)(3), Example 1(ii), fifth sentence ..	§ 1.367(a)–8(b)(1)(vii)	§ 1.367(a)–8T(b)(1)(vii).
1.367(a)–3(d)(3), Example 1A(ii), first sentence	§ 1.367(a)–8(a)(3)	§ 1.367(a)–8T(a)(3).
1.367(a)–3(d)(3), Example 4(i), first sentence ...	§ 1.367(a)–8(e)(3)(i)	§ 1.367(a)–8T(d)(2).
1.367(a)–3(d)(3), Example 4(ii), first sentence ..	§ 1.367(a)–8(e)(3)(i)	§ 1.367(a)–8T(d)(2).
1.367(a)–3(d)(3), Example 4(ii), second sentence.	§ 1.367(a)–8(h)(2), because A and W filed a consolidated Federal income tax return prior to the transaction.	§ 1.367(a)–8T(g)(2), because A owned an amount of stock in W described in section 1504(a)(2) immediately before the transaction.
1.367(a)–3(d)(3), Example 6(ii), last sentence ...	§ 1.367(a)–8(e)(3)(i)	§ 1.367(a)–8T(d)(2).
1.367(a)–3(d)(3), Example 7A(ii), last sentence	§ 1.367(a)–8(b)(5)	§ 1.367(a)–8T(b)(5).
paragraph (d)(3), Example 7A(ii), last sentence	and (e)(3)(i)	and V satisfies the requirements contained in § 1.367(a)– 8T(e)(1)(iii).
1.367(a)–3(d)(3), Example 8(ii), second to last sentence.	§ 1.367(a)–8(e)(3)(i)	§ 1.367(a)–8T(d)(2).
1.367(a)–3(d)(3), Example 11(ii), sixth sentence	§ 1.367(a)–8(e)	§ 1.367(a)–8T(d)(1).
1.367(a)–3(d)(3), Example 11(ii), sixth sentence	§ 1.367(a)–8(b)(1)(vii)	§ 1.367(a)–8T(b)(1)(vii).
1.367(a)–3(e)(1)(A), first sentence	(e)	(g).
1.367(a)–3(e)(1)(F), third sentence	(g)	(j).
1.367(a)–3(e)(2), first sentence	(e)(1) and (g)	(g)(1) and (j).
1.367(a)–3(e)(2), second sentence	(e)(2)	(g)(2).
1.367(a)–3(e)(2)(G), first sentence	(e)(1)(G)	(g)(1)(G).
1.367(a)–3(g)(1), first sentence	(g)(2)	(j)(2).
1.367(a)–3(g)(2)(i), first sentence	(g)(2)(iii), (g)(2)(iv)	(j)(2)(iii), (j)(2)(iv).
1.367(a)–3(g)(2)(ii), first sentence	(g)(2)(iii) or (iv)	(j)(2)(iii) or (iv).
1.367(a)–3(g)(2)(ii), fourth sentence	§ 1.367(a)–3(f)	§ 1.367(a)–3(h).
1.367(a)–3(g)(2)(iii), first sentence	(g)(2)(ii)	(j)(2)(ii).

Section	Remove	Add
1.367(a)–3(g)(2)(iv), first sentence	(g)(2)(i) and (ii)	(j)(2)(i) and (ii).
1.367(b)–4(b)(1)(iii), Example 4(i), last sentence	§ 1.367(a)–8(f)(2)	§ 1.367(a)–3T(e).

■ **Par. 3.** Section 1.367(a)–3 is amended as follows:
■ 1. The second sentence of paragraph (a) is revised.
■ 2. The first sentence of paragraph (d)(2)(iii) is revised.
■ 3. Paragraph (d)(2)(iv) is revised.
■ 4. The title and introductory text of paragraph (d)(2)(v) is revised.
■ 5. The last two sentences of paragraph (d)(3), *Example 1A*(ii) are revised.
■ 6. The last two sentences of paragraph (d)(3), *Example 5A*(ii) are revised.
■ 7. The first and second sentences of paragraph (d)(3), *Example 7*(ii) are revised.
■ 8. The third sentence of paragraph (d)(3), *Example 7A*(ii) is revised.
■ 9. The last sentence of paragraph (d)(3), *Example 9*(ii) is revised.
■ 10. The title of paragraph (d)(3), *Example 10* is revised.
■ 11. The third sentence of paragraph (d)(3), *Example 12*(ii) is revised.
■ 12. Redesignating paragraphs (e), (f), and (g) as paragraphs (g), (h), and (j), respectively.
■ 13. Adding new paragraphs (e) and (i).

The revisions and addition read as follows:

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

(a) * * * In general, a transfer of stock or securities by a U.S. person to a foreign corporation that is described in section 351, 354 (including a reorganization described in section 368(a)(1)(B) and including an indirect stock transfer described in paragraph (d) of this section), 356 or section 361(a) or (b) is subject to section 367(a)(1) and, therefore, is treated as a taxable exchange, unless one of the exceptions set forth in paragraph (b) of this section (regarding transfers of foreign stock or securities), paragraph (c) of this section (regarding transfers of domestic stock or securities), or paragraph (e) of this section (regarding transfers of stock or securities in a section 361 exchange) applies. * * *

* * * * *

(d) * * *

(2)(iii) * * * For purposes of determining the amount of gain that a U.S. person is required to include in income as a result of a triggering event, see § 1.367(a)–8T(b)(3)(i) and (d).

(iv) * * * The U.S. transferor's agreement to recognize gain, as provided in § 1.367(a)–8, shall include appropriate provisions consistent with the principles of § 1.367(a)–3 and § 1.367(a)–8, including, for example, as an additional triggering event an indirect disposition of the transferred stock or securities. For example, in the case of a triangular section 368(a)(1)(B) reorganization described in paragraph (d)(1)(iii)(A) of this section, a triggering event shall include an indirect disposition of the transferred stock or securities by the transfer6ee foreign corporation, such as a disposition of the stock of the acquiring corporation (either foreign or domestic) by the transferee foreign corporation. In the case of a triangular section 368(a)(1)(B) reorganization described in paragraph (d)(1)(iii)(B) of this section, a disposition of the stock of the acquiring corporation by the domestic issuing corporation in a taxable transaction shall, for example, terminate the gain recognition agreement if the principles of § 1.367(a)–8T(g)(1)(i)(A) and (B) are satisfied. See Examples 5 and 5A of this section.

(v) *Determination of whether substantially all of the transferred corporation's assets are disposed of.* For purposes of applying § 1.367(a)–8T(d)(2) to determine whether substantially all of the assets of the transferred corporation have been disposed of, the following assets shall be taken into account (but only if such assets are not fully taxable under section 367 in the taxable year that includes the indirect transfer)—

* * * * *

(3) * * *

Example 1A. * * *

(ii) * * * If A leaves the P group, the gain recognition agreement would be triggered pursuant to § 1.367(a)–8T(d)(4), unless the exception provided under § 1.367(a)–8T(e)(8) applies.

* * * * *

Example 5A * * *

(ii) * * * If Y sold substantially all of its assets (within the meaning of section 368(a)(1)(C)), the gain recognition agreement would be terminated because U owned an amount of stock in Y described in section 1504(a)(2) immediately before the transaction and Y is a domestic corporation. See § 1.367(a)–8T(g)(2). In addition, if F disposed of the stock of S in a taxable transaction the gain recognition agreement would be terminated if the principles of § 1.367(a)–8T(g)(1)(i)(A) and (B) are satisfied.

* * * * *

Example 7. * * *

(ii) * * * The disposition by R, the transferred corporation, of substantially all of its assets would terminate the gain recognition agreement if the assets were disposed of in a taxable transaction because V owned an amount of stock in Z described in section 1504(a)(2) immediately before the transaction, and R is a domestic corporation. See § 1.367(a)–8T(g)(2). Because the assets were transferred in an exchange to which section 351 applies, such transfer does not trigger the gain recognition agreement if V complies with the requirements contained in § 1.367(a)–8T(e)(1)(iii). * * *

Example 7A. * * *

(ii) * * * Thus, the gain recognition agreement would terminate because V owned an amount of stock in Z described in section 1504(a)(2) immediately before the transaction, and R is a domestic corporation. See § 1.367(a)–8T(g)(2).* * *

* * * * *

Example 9. * * *

(ii) * * * To determine whether there is a triggering event under § 1.367(a)–8T(d)(2), both the Business A assets in M and the Business B assets in R must be considered.

Example 10. Concurrent application of asset transfer and indirect stock transfer rules in section 368(a)(1)(A)/(a)(2)(D) reorganization—(i) Facts. * * *

* * * * *

Example 12. * * *

(ii) * * * E's transfer of its N stock could qualify for nonrecognition treatment if D satisfies the requirements in § 1.367(a)–3T(e).* * *

* * * * *

(e) [Reserved] For further guidance, see § 1.367(a)—3T(e).

(f) [Reserved] For further guidance, see § 1.367(a)–3T(f).

* * * * *

(i) [Reserved].

* * * * *

■ **Par. 4.** Section 1.367(a)–3T is added to read as follows:

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

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

(e) *Transfers by a domestic corporation to a foreign corporation in a section 361 exchange*—(1) *General rule.* Notwithstanding paragraphs (b) and (c) of this section, if the U.S. transferor is a domestic corporation that transfers stock or securities to a foreign corporation in a section 361 exchange that would otherwise be subject to section 367(a)(1) under paragraph (a) of this section, such transfer shall not be subject to section 367(a)(1) if—

(i) The conditions set forth in the second sentence of section 367(a)(5) and

any regulations under that section have been satisfied, such that, for example, the U.S. transferor is controlled (within the meaning of section 368(c)) by 5 or fewer domestic corporations and appropriate basis adjustments are made;

(ii) In the case of transferred property that is stock or securities of a domestic corporation, the conditions set forth in paragraph (c) of this section are satisfied;

(iii) All domestic corporate shareholders of the U.S. transferor immediately before the transaction that own 5 percent or more (applying the attribution rules of section 318, as modified by section 958(b)) of the total voting power or the total fair market value of the stock of the transferee foreign corporation immediately after the transaction enter into gain recognition agreements as provided in § 1.367(a)–8T with respect to their pro rata share (determined by the relative fair market value of the U.S. transferor stock or securities owned) of the gain that was realized but not recognized on the transfer of the stock or securities of the transferred corporation that, in addition to the terms of § 1.367(a)–8T(b), designate such domestic corporate shareholders as U.S. transferors for purposes of paragraphs (b) and (c) of this section and § 1.367(a)–8T; and

(iv) All domestic corporate shareholders that enter into gain recognition agreements pursuant to paragraph (e)(1)(iii) of this section make the election described in § 1.367(a)–8T(b)(1)(vii).

(2) *Certain triangular asset reorganizations.* If a transaction described in paragraph (e)(1) of this section qualifies as a triangular asset reorganization described in § 1.358–6(b)(2)(i) through (iii), or in sections 368(a)(1)(G) and (a)(2)(D), the principles of § 1.367(a)–3(d)(2)(iv) shall apply with respect to any gain recognition agreements filed in connection with such transaction.

(3) *Example.* The provisions of paragraph (e)(1) of this section are illustrated in the following example:

Example. (i) *Facts.* US1 and US2, domestic corporations, own 60% and 40%, respectively, of the fair market value of UST, also a domestic corporation. US1 and US2 are not members of the same consolidated group and are unrelated. UST owns 100% of FC, a foreign corporation. In year 1, UST transfers 100% of the stock of FC to FA, a foreign corporation, in a reorganization described in section 368(a)(1)(A) after which US1 and US2 own 6% and 4%, respectively, of the stock of FA. At the time of the initial transfer, the section 1248 amount with respect to the FC stock is $0. The notice requirement under § 1.367(b)–1(c) is satisfied. Section 7874 does not apply to FA's acquisition of the stock of FC. US1 and US2 satisfy the conditions set forth in the second sentence of section 367(a)(5), including making appropriate basis adjustments. Pursuant to paragraph (e)(1) of this section, US1 enters into a gain recognition agreement to recognize its pro rata share of the gain realized but not recognized on UST's transfer of the stock of FC to FA, designates itself as a U.S. transferor for purposes of paragraph (b) of this section and § 1.367(a)–8T, and makes the election described in § 1.367(a)–8T(b)(1)(vii). US2 does not enter into a gain recognition agreement with respect to its pro rata share of the gain realized but not recognized on UST's transfer of the stock of FC to FA because US2 owns less than 5 percent of the stock of FA. In year 4, FA sells 30% of the FC stock for cash.

(ii) *Result.* Because the requirements of paragraph (e)(1)(i) through (iv) of this section are satisfied, the transfer of the FC stock by UST to FA in the year 1 reorganization is not subject to section 367(a)(1). In addition, because FA partially disposes of the stock of FC in year 4, US1 must recognize 30% of its pro rata share of the gain realized but not recognized on the initial transfer of the FC stock to FA pursuant to § 1.367(a)–8T(d)(1)(iii). The proportion of gain recognized by US1 is determined by reference to the relative fair market value of the UST stock owned by US1 at the time of the initial transfer. Thus, US1 must include 18% of the gain realized, but not recognized, on the initial transfer (the 30% of the transferred property that was disposed of multiplied by the amount of gain subject to the gain recognition agreement (corresponding to the 60% of the fair market value of UST stock that US1 held immediately before the initial transfer)), and pay any applicable interest.

(iii) *Alternate facts.* The facts are the same as in paragraph (i) of this *Example*, except that US1 and US2 are members of a consolidated group in which USP is the common parent. US2 is also a 5-percent transferee shareholder as a result of applying the attribution rules of section 318, as modified by section 958(b). The result is the same as in paragraph (ii) of this Example, except that under § 1.367(a)–8T(a)(3)(i)(A) USP files gain recognition agreements on behalf of both US1 and US2. Thus, US1 and US2 must include in income in year 4 18% and 12%, respectively, of the gain realized, but not recognized, on the initial transfer (the 30% of the transferred property that was disposed of multiplied by the amount of gain subject to the gain recognition agreement (corresponding to the 60% and 40% of the fair market value of UST stock that US1 and US2, respectively, held immediately before the initial transfer)), and pay any applicable interest.

(f) *Effective date*—(1) *General rule.* The rules of this § 1.367(a)–3T(e) apply to transfers of stock or securities occurring on or after March 7, 2007. However, these rules do not apply to transfers of stock or securities occurring on or after March 7, 2007, if such transfer was entered into pursuant to a written agreement which was (subject to customary conditions) binding before February 5, 2007, and at all times thereafter. Solely for purposes of this paragraph (f), a transfer described in the preceding sentence shall be deemed to be a transfer occurring before March 7, 2007. For matters covered in this section for periods before March 7, 2007 but on or after July 20, 1998, the rule of § 1.367(a)–8(f)(2)(i) (see 26 CFR part 1, revised April 1, 2006) applies.

(2) *Transfers before effective date*—(i) *General rule.* Taxpayers may apply the rules of § 1.367(a)–3T(e) to transfers before March 7, 2007 and after July 20, 1998, for all open taxable years ending on or after July 20, 1998. This paragraph (f)(2)(i) applies only to rules in § 1.367(a)–3T(e) that were not already effective under the rules of § 1.367(a)–8(f)(2)(i).

(ii) *Special filing rule.* This paragraph (f)(2)(ii) provides the time and manner in which taxpayers may apply paragraph (f)(2)(i) of this section. Notwithstanding the rules provided in § 1.367(a)–8T(a)(2), all agreements, certifications, or other information related to the gain recognition agreement that should have been filed on or before March 7, 2007 with respect to a transfer shall be treated as having been timely filed, provided they are attached to a Federal income tax return amending the taxpayer's Federal income tax return for the taxable year in which they should have been attached. The amended return described in the preceding sentence must be filed before August 6, 2007. A taxpayer that wishes to apply paragraph (f)(2)(i) of this section but that fails to meet the filing requirement described in the preceding sentence must request reasonable cause relief as provided in § 1.367(a)–8T(e)(10).

(3) *Expiration.* The applicability of this section expires on or before February 1, 2010.

* * * * *

■ **Par. 5.** Section 1.367(a)–8 is amended by revising paragraphs (a) through (i) to read as follows:

§ 1.367(a)–8 Gain recognition agreement requirements.

(a) through (i) [Reserved]. For further guidance, see § 1.367(a)–8T(a) through (h).

■ **Par. 6.** Section 1.367(a)–8T is added to read as follows:

§ 1.367(a)–8T Gain recognition agreement requirements (temporary).

(a) *In general.* This section specifies the terms and conditions for an agreement to recognize gain entered into pursuant to §§ 1.367(a)–3(b) through (d)

and 1.367(a)–3T(e) to qualify for nonrecognition treatment under section 367(a).

(1) *Definitions.* The following definitions apply for purposes of this section:

(i) *Asset reorganization.* Except as otherwise provided in this paragraph (a)(1)(i), the term *asset reorganization* means a reorganization described in section 368(a)(1) involving the transfer of assets by a corporation to another corporation pursuant to section 361, except that such term shall include reorganizations described in section 368(a)(1)(D) or (G) only if the requirements of section 354(b)(1)(A) and (B) are met. For purposes of paragraphs (e)(3)(ii) and (e)(3)(iii) of this section, the following reorganizations are excluded from the term ''asset reorganization'':

(A) Triangular asset reorganizations described in § 1.358–6(b)(2)(i) through (iii) or in sections 368(a)(1)(G) and (a)(2)(D). For rules applicable to triangular asset reorganizations described in § 1.358–6(b)(2)(i) through (iii) or in sections 368(a)(1)(G) and (a)(2)(D), see paragraph (e)(4) of this section.

(B) Asset reorganizations where, after the reorganization, the same corporation is both the transferee foreign corporation (or successor transferee foreign corporation, as applicable) and the transferred corporation (or the successor transferred corporation, as applicable); for example, the acquisition of the transferee foreign corporation's assets by the transferred corporation in a reorganization described in section 368(a)(1). For rules applicable to certain upstream and downstream reorganizations involving the transferee foreign corporation and transferred corporation, see paragraphs (e)(6) and (g)(3) of this section.

(ii) The term *common parent* means a corporation that controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis.

(iii) The term *consolidated group* has the meaning set forth in § 1.1502–1(h).

(iv) The term *disposition* means any transfer that would constitute a disposition for any purpose of the Internal Revenue Code and the regulations thereunder. It also includes an indirect disposition of the stock of the transferred corporation as described in § 1.367(a)–3(d). It does not, however, include a redemption of stock under section 302(d) to the extent the redemption is treated as a distribution to which section 301(c)(1) applies.

(v) The term *gain recognition agreement* means an agreement described in paragraph (b) of this section.

(vi) The term *initial transfer* means a transfer in connection with which a gain recognition agreement is filed in connection with an exchange described in §§ 1.367(a)–3(b) through (d) and 1.367(a)–3T(e).

(vii) The term *nonrecognition transaction* means any disposition of property in a transaction in which gain or loss is not recognized in whole or in part for purposes of subtitle A.

(viii) The term *transferee foreign corporation* means the foreign corporation the stock of which is received in an exchange described in section 367(a) by a U.S. transferor.

(ix) *Transferred corporation.* Other than in the case of an indirect stock transfer, the term *transferred corporation* means the corporation the stock or securities of which are transferred by a U.S. transferor to a foreign corporation in an exchange described in section 367(a)(1). In the case of an indirect stock transfer, the term *transferred corporation* has the meaning set forth in § 1.367(a)–3(d)(2)(ii).

(x) The term *triggering event* means an event described in paragraph (d) of this section, except as provided in paragraphs (e) (exceptions to triggering events) and (g) (terminations of gain recognition agreements) of this section.

(xi) The term *U.S. transferor* means a U.S. person (as defined in § 1.367(a)–1T(d)(1)) that transfers stock or securities of the transferred corporation in exchange for stock or securities of the transferee foreign corporation in an exchange described in section 367(a). For the application of the rules of this section to indirect transfers involving partnerships and interests therein, see § 1.367(a)–1T(c)(3).

(2) *Filing requirements for gain recognition agreements.* A U.S. transferor's gain recognition agreement must be attached to, and filed by the due date (including extensions) of, the U.S. transferor's income tax return for the taxable year that includes the date of the initial transfer, except that if the U.S. transferor is a member of a consolidated group for the taxable year in which the transfer was made, the agreement must be attached to the consolidated group's tax return. If a new gain recognition agreement is entered into pursuant to an exception in paragraph (e) of this section, the agreement must be attached to, and filed by the due date (including extensions) of, the applicable income tax return for the taxable year that includes the date of the triggering event. If the timeliness requirement of this paragraph (a)(2) is not satisfied, see paragraph (e)(10) of this section.

(3) *Who must sign*—(i) *General rule.* The gain recognition agreement must be signed under penalties of perjury by the appropriate party corresponding to the following categories of U.S. transferor. A gain recognition agreement may also be signed by an agent authorized to do so under a general or specific power of attorney.

(A) In the case of a corporate U.S. transferor, a responsible officer, except that if the U.S. transferor (or successor U.S. transferor designated in a new gain recognition agreement entered into under paragraph (e) of this section) is a member, but not the common parent of a consolidated group for the taxable year in which the transfer was made (or for the taxable year in which a new gain recognition agreement is entered into under paragraph (e) of this section) the agreement must be entered into by the common parent and signed by a responsible officer of such common parent.

(B) In the case of an individual U.S. transferor (including a partner who is treated as a U.S. transferor by virtue of § 1.367(a)–1T(c)(3)), the individual.

(C) In the case of a trust or estate, a trustee, executor, or equivalent fiduciary.

(D) In the case of a bankruptcy case under Title 11, United States Code, a debtor in possession or trustee.

(ii) *Signature requirement.* When a gain recognition agreement, certification, or other information is required under this section to be attached to and filed by the due date (including extensions) of a U.S. Federal income tax return and signed under penalties of perjury by the person who signs the return, the attachment and filing of an unsigned copy is considered to satisfy such requirement, provided the taxpayer retains the original in its records in the manner specified by § 1.6001–1(e).

(b) *Gain recognition agreement*—(1) *Contents.* The gain recognition agreement must set forth the following information, with the heading ''GAIN RECOGNITION AGREEMENT UNDER § 1.367(a)–8T'' and with paragraphs labeled to correspond with the numbers set forth as follows:

(i) A statement that the document submitted constitutes the U.S. transferor's agreement to recognize gain in accordance with the requirements of this section.

(ii) A description of the property transferred as described in paragraph (b)(2) of this section.

(iii) The U.S. transferor's agreement to recognize gain, as described in paragraph (b)(3) of this section.

(iv) A waiver of the period of limitations as described in paragraph (b)(4) of this section.

(v) An agreement to file with the U.S. transferor's tax returns for the five full taxable years following the year of the initial transfer a certification as described in paragraph (b)(5) of this section.

(vi) A statement that arrangements have been made in connection with the transferred property to ensure that the U.S. transferor will be informed of any triggering events.

(vii) A statement as to whether, if all or a portion of the gain recognition agreement is triggered under paragraph (d) of this section, the taxpayer elects to include the required amount in the year of the triggering event rather than in the year of the initial transfer.

(2) *Description of property transferred.* (i) The agreement shall include a description of each property transferred by the U.S. transferor, an estimate of the fair market value of the property as of the date of the initial transfer, a statement of the cost or other basis of the property and any adjustments thereto, and the date on which the property was acquired by the U.S. transferor.

(ii) The U.S. transferor must provide the following information:

(A) The type or class, amount, and characteristics of the stock or securities transferred, as well as the name, address, and place of incorporation of the issuer of the stock or securities, and the percentage (by voting power and value) that the stock (if any) represents of the total stock outstanding of the transferred corporation.

(B) The name, address and place of incorporation of the transferee foreign corporation, and the percentage of stock (by voting power and value) that the U.S. transferor received or will receive in the transaction.

(C) If stock or securities are transferred pursuant to § 1.367(a)–3T(e), a statement that the conditions set forth in the second sentence of section 367(a)(5) and any regulations under that section have been satisfied, and an explanation of any basis or other adjustments made pursuant to section 367(a)(5) and any regulations under that paragraph.

(D) If the transferred corporation is a domestic corporation, the taxpayer identification number of the transferred corporation, together with a statement describing whether, and if so, how, section 7874 applies to the transfer, and a statement that all of the requirements of § 1.367(a)–3(c)(1) are satisfied.

(E) If the transferred corporation is a foreign corporation, a statement as to whether the U.S. transferor was a section 1248 shareholder, as defined in § 1.367(b)–2(b), of the transferred corporation immediately before the exchange, and, if so, a statement as to whether the U.S. transferor is a section 1248 shareholder with respect to the transferee foreign corporation stock received, and whether any reporting requirements or other rules contained in regulations under section 367(b) are applicable, and, if so, whether they have been satisfied.

(F) If the transaction involved the transfer of assets other than stock or securities and the transaction was subject to the indirect stock transfer rules of § 1.367(a)–3(d), a statement as to whether the reporting requirements under section 6038B have been satisfied with respect to the transfer of property other than stock or securities, and an explanation of whether gain was recognized under section 367(a)(1) and whether section 367(d) was applicable to the transfer of such assets, or whether any tangible assets qualified for nonrecognition treatment under section 367(a)(3) (as limited by section 367(a)(5) and §§ 1.367(a)–4T through 1.367(a)–6T).

(3) *Terms of agreement*—(i) *General rule.* If before the close of the fifth full taxable year (not less than 60 months) following the close of the taxable year of the initial transfer, there is a triggering event, then, unless an election is made under paragraph (b)(1)(vii) of this section, by the 90th day thereafter the U.S. transferor must file an amended Federal income tax return for the year of the initial transfer and recognize thereon the gain realized, but not recognized, upon the initial transfer, with interest. If an election under paragraph (b)(1)(vii) of this section was made, then, if a triggering event occurs, the U.S. transferor must include the gain realized, but not recognized, on the initial transfer in income on its Federal income tax return for the taxable year that includes the date of the triggering event. In accordance with paragraph (b)(3)(iii) of this section, interest must be paid on any additional tax due. If a taxpayer properly makes the election under paragraph (b)(1)(vii) of this section but later fails to include in income the gain realized, but not recognized, on the initial transfer, the Commissioner may, in his discretion, include the gain in the taxpayer's income in the year of the initial transfer.

(ii) *Offsets.* No special limitations apply with respect to net operating losses, capital losses, credits against tax, or similar items.

(iii) *Reporting of interest and gain.* If additional tax is required to be paid pursuant to paragraph (b)(3)(i) of this section, then interest must be paid on that amount at the rates determined under section 6621 with respect to the period between the date that was prescribed for filing the U.S. transferor's Federal income tax return for the year of the initial transfer and the date on which the additional tax for that year is paid. If the election in paragraph (b)(1)(vii) of this section is made, a taxpayer should include the amount of gain as taxable income on its Federal income tax return (together with other income or loss items) and include the amount of interest in its payment (or reduce the amount of any refund due by the amount of the interest). A taxpayer must also attach to its Federal income tax return a separate schedule with the heading ''Calculation of Section 367 Tax and Interest,'' on which the amount of tax attributable to the gain and the interest required to be paid under this section are separately identified and calculated.

(iv) *Basis adjustments*—(A) *Transferee foreign corporation.* If a U.S. transferor is required to recognize gain under this section as a result of a triggering event, then the transferee foreign corporation's basis in the transferred stock or securities shall be increased (as of the date of the initial transfer) by the amount of gain required to be recognized (but not by any tax or interest required to be paid on such amount) by the U.S. transferor.

(B) *U.S. transferor.* If a U.S. transferor is required to recognize gain as a result of a triggering event, then the U.S. transferor's basis in the stock of the transferee foreign corporation received (or deemed received) in the initial transfer shall be increased by the amount of gain required to be recognized (as of the date of the initial transfer) (but not by any tax or interest required to be paid on such amount).

(C) *Other adjustments.* Other appropriate adjustments to basis that are consistent with the principles of this paragraph (b)(3)(iv) may be made if the U.S. transferor is required to recognize gain under this section. In no case, however, shall the transferred corporation's net asset basis be increased as a result of the U.S. transferor recognizing gain under this section as a result of a triggering event.

(D) *Example.* The principles of this paragraph (b)(3) are illustrated by the following example:

Example. (i) *Facts.* D, a domestic corporation owning 100 percent of the stock

of S, a foreign corporation, transfers all of the S stock to F, a foreign corporation, in an exchange described in section 368(a)(1)(B). The section 1248 amount with respect to the S stock at the time of the transfer is $0. In the exchange, D receives 20 percent of the voting stock of F. The transaction is subject to both sections 367(a) and (b). See §§ 1.367(a)–3(b) and 1.367(b)–1(a). All of the requirements of § 1.367(a)–3(b)(1) are satisfied, and D enters into a gain recognition agreement to qualify for nonrecognition treatment and does not make the election contained in paragraph (b)(1)(vii) of this section. Two years after the initial transfer, F transfers all of the S stock to F1, a foreign corporation, in an exchange to which section 351 applies, and D complies with the requirements of paragraph (e)(1)(ii) of this section. Four years after the initial transfer, D transfers its entire 20 percent interest in F's voting stock to a domestic partnership in exchange for an interest in the partnership and complies with the requirements of paragraph (e)(1)(i) of this section. D complies with the notice requirement under § 1.367(b)–1(c) for each transaction subject to section 367(b). Because D complies with the requirements of paragraph (e) for each transaction that would otherwise be a triggering event, D is not required to recognize the gain that was realized, but not recognized, on the initial transfer. Five years after the initial transfer, S disposes of substantially all (as described in paragraph (d)(2) of this section) of its assets, and D is required by the terms of the gain recognition agreement to recognize all the gain that it realized on the initial transfer of the stock of S.

(ii) *Result.* As a result of the triggering event and paragraph (b)(3)(iv) of this section, the amount of gain required to be recognized as a result of S's disposition of substantially all its assets (but not the tax or interest required to be paid on such amount) is reflected by an increased basis (as of the date of the initial transfer) in D's partnership interest, the partnership's interest in the 20 percent voting stock of F, F's stock of F1, and F1's stock of S. S, however, is not permitted to increase its basis in its assets for purposes of determining the direct or indirect U.S. tax results, if any, on the sale of its assets.

(4) *Waiver of period of limitation.* The U.S. transferor must file, with the gain recognition agreement, a waiver of the period of limitation on assessment of tax upon the gain realized on the initial transfer. The waiver shall be executed on Form 8838 ''Consent to Extend the Time to Assess Tax Under Section 367—Gain Recognition Agreement'' and shall extend the period for assessment of such tax to a date not earlier than the eighth full taxable year following the taxable year of the initial transfer. The waiver shall also contain such other terms with respect to assessment as may be considered necessary by the Commissioner to ensure the assessment and collection of the correct tax liability for each year for which the waiver is required. The waiver must be signed by a person who would be authorized to sign the agreement pursuant to the provisions of paragraph (a)(3) of this section.

(5) *Annual certification.* The U.S. transferor must file with its income tax return for each of the five full taxable years following the taxable year of the initial transfer a certification that there has not been a triggering event, and a description of any exception under paragraph (e) of this section if such an exception is relied upon for the position that there has not been a triggering event. The U.S. transferor must include with its annual certification a statement describing any dispositions of assets by the transferred corporation that are not made in the ordinary course of business. The annual certification pursuant to this paragraph (b)(5) must be signed by a person who would be authorized to sign the agreement pursuant to the provisions of paragraph (a)(3) of this section.

(c) *Use of security.* The U.S. transferor may be required to furnish a bond or other security that satisfies the requirements of § 301.7101–1 of this chapter if the Area Director, Field Examination, Small Business/Self Employed or the Director of Field Operations, Large and Mid-Size Business (Director) determines that such security is necessary to ensure the payment of any tax on the gain realized, but not recognized, upon the initial transfer. Such bond or security generally will be required only if the stock or securities transferred are a principal asset of the U.S. transferor and the Director has reason to believe that a disposition of the stock or securities may be contemplated.

(d) *Triggering events.* If there is a triggering event described in this paragraph (d) during the term of the gain recognition agreement, the U.S. transferor must include in income the gain realized, but not recognized, upon the initial transfer as provided in paragraph (b)(3)(i) of this section. In addition, the U.S. transferor must pay any interest required by paragraph (b)(3)(iii) of this section. See § 1.367(a)–3(d)(2)(iv) for additional triggering events when a gain recognition agreement has been filed in connection with an indirect stock transfer. Except to the extent provided in paragraphs (e) and (g) of this section, if any of the following events occur during the term of the gain recognition agreement, it shall constitute a triggering event:

(1) *Disposition of stock or securities of the transferred corporation*—(i) *In general.* A disposition, in whole or in part, by the transferee foreign corporation (or any other person) of the transferred stock or securities received by the transferee foreign corporation in the initial transfer. For purposes of this section, a reference to transferred stock or securities shall also include stock or securities of the transferred corporation the basis of which is determined (directly or indirectly) in whole or in part, by reference to the basis of the stock or securities transferred in the initial transfer. A disposition of all or a portion of the stock or securities of the transferred corporation by installment sale is treated as a disposition of the stock or securities in the year of the installment sale.

(ii) *Example.* The provisions of this paragraph (d)(1)(i) are illustrated by the following example:

Example. Interaction between trigger of gain recognition agreement and subpart F rules—(i) *Facts.* USP, a domestic corporation, owns all of the stock of two foreign corporations, CFC1 and CFC2. USP's section 1248 amount with respect to CFC2 is $30. USP has a basis of $50 in its stock of CFC2; the stock of CFC2 has a fair market value of $100. In a transaction described in sections 351 and 368(a)(1)(B), USP transfers the stock of CFC2 to CFC1 in exchange for additional stock of CFC1 with a basis of $50. The transaction is subject to both sections 367(a) and (b). See §§ 1.367(a)–3(b) and 1.367(b)–1(a). To qualify for nonrecognition treatment under section 367(a), USP enters into a gain recognition agreement for $50 under this section. No election under paragraph (b)(1)(vii) of this section is made. USP also complies with the notice requirement under § 1.367(b)–1(c). Two years after the initial transfer, CFC1 sells the stock of CFC2 for $120. At the time of the sale, the section 1248 amount with respect to the CFC2 stock continues to be $30. The $70 of gain recognized on the sale of CFC2 stock would give rise to a $70 subpart F inclusion to USP under section 951(a)(1)(A).

(ii) *Result*—(A) *Trigger of gain recognition agreement with no election.* CFC1's sale of CFC2 stock is a triggering event. As a result, USP must amend its return for the year of the initial transfer and include $50 in income (as well as pay any applicable interest), $30 of which will be recharacterized as a dividend pursuant to section 1248. Under paragraph (b)(3)(iv) of this section, as of the date of the initial transfer, CFC1 has a basis of $100 in its CFC2 stock, and USP has a basis in its CFC1 stock of $100. As a result of the sale of CFC2 stock by CFC1, USP will have a $20 subpart F inclusion under section 951(a)(1)(A).

(B) *Trigger of gain recognition agreement with election.* Assume the same facts as in paragraph (i) of this *Example*, except that USP elected under paragraph (b)(1)(vii) of this section to include the amount of gain realized, but not recognized, on the initial transfer, $50, in the year of the triggering event rather than in the year of the initial transfer. The result is the same as above, except that USP will include the $50 of gain on its tax return for the year of the triggering event, together with interest. For purposes of

determining the amount of the $50 gain characterized as a dividend pursuant to section 1248, if any, of the $50 inclusion, USP will take into account the section 1248 amount of CFC2 at the time of the disposition in the year of the triggering event.

(iii) *Partial dispositions.* If the transferee foreign corporation or any other person disposes of only a portion of the stock or securities of the transferred corporation, then the U.S. transferor is required to recognize only a proportionate amount of the gain realized, but not recognized, upon the initial transfer. The proportion required to be recognized shall be determined by reference to the fair market value of the transferred stock or securities disposed of and the total fair market value of the transferred stock or securities immediately before the disposition.

(2) *Disposition of substantially all of the transferred corporation's assets.* A disposition of substantially all of the transferred corporation's assets (including stock in a subsidiary corporation or an interest in a partnership) by the transferred corporation or any other person. Solely for purposes of this section, the term *substantially all* has the meaning provided under section 368(a)(1)(C). Accordingly, the determination of whether substantially all of the transferred corporation's assets have been disposed of shall be made under all the facts and circumstances. For purposes of this paragraph (d)(2), dispositions of stock in connection with an asset reorganization of a corporation all or a portion the stock of which is owned by the transferred corporation, or a liquidation of a corporation the stock of which is owned by the transferred corporation in an amount satisfying the requirements of section 1504(a)(2) and to which sections 332 and 337 apply, shall not be taken into account. If the initial transfer was an indirect stock transfer, see § 1.367(a)–3(d)(2)(v). If the transferred corporation is a domestic corporation, see paragraph (g)(2) of this section. For an example of when a disposition of substantially all the transferred corporation's assets by a person other than the transferred corporation is a triggering event under this paragraph (d)(2), see paragraph (e)(6)(ii) of this section.

(3) *Disposition of the stock of the transferee foreign corporation*—(i) *General rule.* A disposition in whole or in part, by the U.S. transferor of the stock of the transferee foreign corporation that is received (or deemed received) in the initial transfer. For purposes of this section, a reference to stock described in the preceding sentence shall also include stock of the transferee foreign corporation the basis of which is determined, directly or indirectly, in whole or in part, by reference to the basis of the stock of the transferee foreign corporation that is received (or deemed received) in the initial transfer.

(ii) *Partial dispositions.* If the U.S. transferor disposes of only a portion of the stock of the transferee foreign corporation that is received (or deemed received) in the initial transfer, then the U.S. transferor is required to recognize only a proportionate amount of the gain realized, but not recognized, upon the initial transfer. The proportion required to be recognized shall be determined by reference to the fair market value of the transferee foreign corporation stock disposed of and the total fair market value of the transferee foreign corporation stock immediately before the disposition.

(4) *Deconsolidation.* A U.S. transferor that is a member of a consolidated group ceases to be a member of the consolidated group, other than by reason of an acquisition of the assets of the U.S. transferor in a transaction to which section 381(a) applies, or by reason of joining a new consolidated group as part of the same transaction. However, in the case of a transaction to which section 381(a) applies, see paragraph (d)(3) of this section (providing that a triggering event includes a disposition of the stock of the transferee foreign corporation).

(5) *Consolidation.* A U.S. transferor becomes a member of a consolidated group.

(6) *Individual U.S. transferor becomes a non-citizen nonresident.* A U.S. transferor that is an individual loses U.S. citizenship, or a U.S. transferor that is a long-term resident ceases to be taxed as a lawful permanent resident (as defined in section 877(e)(2)). Immediately before the date that the U.S. transferor loses U.S. citizenship or ceases to be taxed as a long-term resident, the gain recognition agreement will be triggered. No additional inclusion is required under section 877 with respect to the transferred stock or securities, and a gain recognition agreement under section 877 may not be used to avoid taxation under section 367(a) resulting from the trigger of the section 367(a) gain recognition agreement.

(7) *Death of an individual; trust or estate goes out of existence.* An individual U.S. transferor dies, or a U.S. transferor that is a trust or estate goes out of existence.

(8) *Failure to comply.* The failure to comply in any material respect with the requirements of this section or with the terms of a gain recognition agreement (for example, a failure to file an annual certification or Form 8838). Such a material failure to comply shall extend the period for assessment of tax until three years after the date on which the Director of Field Operations or Area Director receives actual notice of the failure to comply.

(e) *Exceptions.* Notwithstanding paragraph (d) of this section, the following events shall not constitute triggering events:

(1) *Certain nonrecognition transactions*—(i) *Dispositions of stock of the transferee foreign corporation by the U.S. transferor*—(A) *Transfers to a corporation or partnership.* Except to the extent provided in paragraph (g)(1)(iv) of this section, a disposition of stock of the transferee foreign corporation by the U.S. transferor in an exchange to which section 351, 354 (but only in a reorganization described in section 368(a)(1)(B)), or 721 applies, will not be a triggering event under paragraph (d)(3) of this section, and the original gain recognition agreement shall terminate without further effect, if the U.S. transferor complies with requirements similar to those contained in paragraph (e)(1)(ii) of this section, providing for notice and an agreement to recognize gain in the case of a direct or indirect disposition of the stock previously held by the U.S. transferor. See paragraph (e)(3)(i) of this section for dispositions of the transferee foreign corporation stock in certain asset reorganizations.

(B) *Liquidations of the U.S. transferor under sections 332 and 337.* The disposition of the transferee foreign corporation stock pursuant to a liquidation of the U.S. transferor under sections 332 and 337 will not be a triggering event under paragraph (d)(3) of this section, and the original gain recognition agreement shall terminate without further effect, if the following conditions are satisfied:

(*1*) The distributee is a domestic corporation described in section 332(b)(1).

(*2*) The domestic distributee corporation (successor U.S. transferor) enters into a new gain recognition agreement pursuant to which it agrees to recognize gain (during the remaining term of the original gain recognition agreement), with respect to the initial transfer, modified by substituting the successor U.S. transferor in place of the original U.S. transferor, and agreeing to treat the successor U.S. transferor as the original U.S. transferor for purposes of this section. If, however, in connection with a liquidation described in section 332, the U.S. transferor recognizes gain

under section 336 with respect to a portion of the stock of the transferee foreign corporation, and the conditions described in paragraph (g)(1) of this section are satisfied, the new gain recognition agreement that the successor U.S. transferor enters into shall reflect the gain realized, but not recognized, on the initial transfer (subject to adjustment for prior partial dispositions) less that proportion corresponding to gain recognized under section 336. The proportion is determined by reference to the relative fair market values of the transferee foreign corporation stock received (or deemed received) in the initial transfer on which the U.S. transferor recognized gain under section 336 and the total fair market value of the transferee foreign corporation stock received (or deemed received) by the U.S. transferor in the initial transfer that is distributed by the U.S. transferor in the liquidation.

(*3*) The successor U.S. transferor makes the election described in paragraph (b)(1)(vii) of this section. However, if the U.S. transferor was a member of a consolidated group in the year of the initial transfer, and the successor U.S. transferor is also a member of the original consolidated group immediately after the liquidation, no such election must be made.

(*4*) The successor U.S. transferor provides with its next annual certification (described in paragraph (b)(5) of this section) the new gain recognition agreement, a notice of the liquidation, and Form 8838 to extend the period for assessment of the tax on the initial transfer to a date not earlier than the eighth full taxable year following the taxable year of the initial transfer.

(ii) *Transfers of stock or securities of the transferred corporation by the transferee foreign corporation to a corporation or partnership*. Except to the extent provided in paragraph (f)(1)(i) of this section, a disposition of stock or securities of the transferred corporation by the transferee foreign corporation in an exchange to which section 351, 354 (but only in a reorganization described in section 368(a)(1)(B)), or 721 applies, will not be a triggering event described in paragraph (d)(1) of this section, and the original gain recognition agreement shall terminate without further effect, if the following conditions are satisfied:

(A) The transferee foreign corporation receives (or is deemed to receive) in exchange for the property disposed of, stock in a corporation, or an interest in a partnership, that acquired the transferred stock or securities (or receives stock in a corporation that controls the corporation acquiring the transferred stock or securities in the case of a triangular section 368(a)(1)(B) reorganization).

(B) The U.S. transferor provides a notice of the transfer with its next annual certification under paragraph (b)(5) of this section, setting forth—

(*1*) A full description of the transfer;

(*2*) The applicable nonrecognition provision; and

(*3*) The name, address, and taxpayer identification number (if any) of the new transferee of the transferred stock or securities.

(C) The U.S. transferor provides with its next annual certification a new gain recognition agreement pursuant to which it agrees to recognize gain (during the remaining term of the original gain recognition agreement) with respect to the initial transfer, and in which it agrees that any of the following events also constitutes a triggering event:

(*1*) A disposition of the stock or securities or partnership interest that the transferee foreign corporation received in exchange for the transferred stock or securities (other than in a disposition which itself qualifies under the rules of paragraph (e) of this section).

(*2*) The corporation or partnership that acquired the transferred stock or securities disposes of such property (other than in a disposition which itself qualifies under the rules of paragraph (e) of this section).

(*3*) Any other disposition that has the effect of an indirect disposition of the transferred stock or securities.

(iii) *Transfers of the transferred corporation's assets to a corporation or partnership.* Except to the extent provided in paragraph (f)(1)(ii) of this section, a disposition of substantially all of the transferred corporation's assets by the transferred corporation in an exchange to which section 351, 354 (but only in a reorganization described in section 368(a)(1)(B)—for example, where stock in a subsidiary corporation comprises substantially all of the transferred corporation's assets), or 721 applies, will not be a triggering event under paragraph (d)(2) of this section, and the original gain recognition agreement shall terminate without further effect, if the transferred corporation receives (or is deemed to receive) in exchange for all or a portion of its assets stock in a corporation or an interest in a partnership that acquired the assets of the transferred corporation (or receives stock in a corporation that controls the corporation acquiring the assets) and the U.S. transferor complies with requirements similar to those contained in paragraph (e)(1)(ii) of this section, (providing for notice and an agreement to recognize gain in the case of a direct or indirect disposition of the assets previously held by the transferred corporation). See paragraph (e)(3)(iii) of this section for dispositions of substantially all of the transferred corporation's assets in certain asset reorganizations.

(2) *Recapitalizations*—(i) *Transferred corporation.* Except to the extent provided in paragraph (f)(1) of this section, a transaction described in section 368(a)(1)(E) of the transferred corporation will not be a triggering event under paragraph (d)(1) of this section. The description of this exception that is required to be filed with the annual certification under paragraph (b)(5) of this section must include a description of the type or class, amount, and characteristics of the stock or securities that the transferred corporation issued in the reorganization.

(ii) *Transferee foreign corporation.* A section 368(a)(1)(E) reorganization of the transferee foreign corporation will not be a triggering event under paragraph (d)(3) of this section. The description of this exception that is required to be filed with the annual certification under paragraph (b)(5) of this section must include a description of the type or class, amount, and characteristics of the stock or securities that the transferee foreign corporation issued in the reorganization. See paragraph (g)(1) of this section for rules regarding the recognition of gain by the U.S. transferor in connection with nonrecognition exchanges.

(3) *Certain asset reorganizations*—(i) *Transfers of transferee foreign corporation's stock by U.S. transferor.* Except to the extent provided in paragraph (g)(1)(iv) of this section, if the U.S. transferor transfers all or a portion of the stock of the transferee foreign corporation to a domestic acquiring corporation (successor U.S. transferor) pursuant to an asset reorganization, the exchanges made pursuant to such asset reorganization will not be triggering events described in paragraph (d)(3) of this section, and the original gain recognition agreement shall terminate without further effect, if the following conditions are satisfied:

(A) The common parent of the original consolidated group, successor U.S. transferor, or new common parent, as applicable, enters into a new gain recognition agreement pursuant to which the successor U.S. transferor agrees to recognize gain (during the remaining term of the original gain recognition agreement) with respect to the initial transfer, modified by substituting the successor U.S. transferor in place of the original U.S.

transferor and agreeing to treat the successor U.S. transferor as the original U.S. transferor for purposes of this section.

(B) The successor U.S. transferor or new common parent, as applicable, makes the election described in paragraph (b)(1)(vii) of this section. However, if the U.S. transferor was a member of a consolidated group in the year of the initial transfer, and the successor U.S. transferor is also a member of the original consolidated group immediately after the asset reorganization, no such election must be made.

(C) The successor U.S. transferor provides with its next annual certification (described in paragraph (b)(5) of this section)—

(*1*) The new gain recognition agreement;

(*2*) A notice of the transfer setting forth a full description of the transfer (including the date of such transfer), and the successor U.S. transferor's name, address, and taxpayer identification number; and

(*3*) Form 8838 to extend the period for assessment of the tax on the initial transfer to a date not earlier than the eighth full taxable year following the taxable year of the initial transfer.

(ii) *Transfers of transferred corporation stock or securities by a transferee foreign corporation to a foreign acquiring corporation.* Except to the extent provided in paragraph (f)(1) of this section, if the transferee foreign corporation transfers all or a portion of the stock or securities of the transferred corporation to a foreign acquiring corporation (successor transferee foreign corporation) in an asset reorganization, the exchanges made pursuant to such reorganization will not be triggering events described in paragraph (d)(1) or (d)(3) of this section, and the original gain recognition agreement shall terminate without further effect, if the following conditions are satisfied:

(A) The U.S. transferor or common parent, as applicable, enters into a new gain recognition agreement pursuant to which the U.S. transferor agrees to recognize gain (during the remaining term of the original gain recognition agreement), with respect to the initial transfer, substituting the successor transferee foreign corporation in place of the original transferee foreign corporation, and agreeing to treat the successor transferee foreign corporation as the original transferee foreign corporation for purposes of this section.

(B) The U.S. transferor provides with its next annual certification (described in paragraph (b)(5) of this section) the new gain recognition agreement and a notice of the transfer setting forth a full description of the transfer (including the date of such transfer), and the successor transferee foreign corporation's name, address, and taxpayer identification number (if any).

(iii) *Transfers of substantially all of the transferred corporation's assets.* Except to the extent provided in paragraph (f)(2) of this section, if the transferred corporation transfers substantially all of its assets to an acquiring corporation (successor transferred corporation) pursuant to an asset reorganization, the exchanges made pursuant to such asset reorganization will not be triggering events under paragraph (d)(1) or (d)(2) of this section, and the original gain recognition agreement shall terminate without further effect, if the following conditions are satisfied:

(A) The U.S. transferor or common parent, as applicable, enters into a new gain recognition agreement pursuant to which the U.S. transferor agrees to recognize gain (during the remaining term of the original gain recognition agreement), with respect to the initial transfer, modified by—

(*1*) Substituting the successor transferred corporation in place of the original transferred corporation and agreeing to treat the successor transferred corporation as the original transferred corporation for purposes of this section; and

(*2*) Treating only the assets acquired by the successor transferred corporation from the original transferred corporation pursuant to the asset reorganization as the assets subject to the triggering event rules under paragraph (d)(2) of this section.

(B) The U.S. transferor provides with its next annual certification (described in paragraph (b)(5) of this section) the new gain recognition agreement and a notice of the transfer setting forth a full description of the transfer (including the date of such transfer), and the successor transferred corporation's name, address, and taxpayer identification number (if any).

(iv) *Example.* The rules of paragraph (e)(3) of this section are illustrated by the following examples:

Example 1. (i) *Facts.* UST, a domestic corporation incorporated under the laws of State A, owns 100% of the stock of TFD, a foreign corporation. In year 1, UST transfers all of the TFD stock to TFC, a foreign corporation, in an exchange to which section 351 applies. In the exchange, UST receives 100% of the stock of TFC. The transaction is subject to both sections 367(a) and (b). See §§ 1.367(a)–3(b) and 1.367(b)–1(a). All of the requirements of § 1.367(a)–3(b)(1) are satisfied, and UST enters into a gain recognition agreement. UST also complies with the notice requirement under § 1.367(b)–1(c). In year 3, UST transfers its assets in a section 361(a) exchange to USA, a newly formed domestic corporation incorporated under the laws of State B, in exchange for stock of USA, and UST distributes such stock to its shareholders in a transaction described in section 368(a)(1)(F).

(ii) *Result.* The transfer of the TFC stock by UST to USA pursuant to the section 368(a)(1)(F) reorganization is a triggering event under paragraph (d)(3) of this section. If, however, UST complies with the requirements contained in paragraph (e)(3)(i) of this section, the transfer will not be a triggering event.

(iii) *Alternate facts.* The facts are the same as in paragraph (i) of this *Example 1*, except that the acquiring corporation is foreign instead of domestic. Because paragraph (e)(3)(i) of this section provides an exception to a triggering event under paragraph (d)(3) of this section only if the acquiring corporation in the asset reorganization is a domestic corporation, the section 368(a)(1)(F) reorganization is a triggering event without exception. See also section 367(a)(5) and §§ 1.367(a)–1T(f) and 1.367(a)–3T(e) (providing that certain corporate shareholders of a U.S. transferor may enter into a gain recognition agreement when the U.S. transferor goes out of existence in a section 361 initial transfer).

Example 2. (i) *Facts.* UST, a domestic corporation, owns 100% of the stock of three foreign corporations, FC1, FC2 and FC3. In year 1, USP transfers 100% of the stock of FC1 to FC2 in an exchange to which section 351 applies. The transaction is subject to both sections 367(a) and (b). See §§ 1.367(a)–3(b) and 1.367(b)–1(a). All of the requirements of § 1.367(a)–3(b)(1) are satisfied, and UST enters into a gain recognition agreement. UST also complies with the notice requirement under § 1.367(b)–1(c). In year 4, in a reorganization described in section 368(a)(1)(D), FC2 transfers all of its assets, including the stock of FC1, to FC3 in exchange for FC3 stock. FC2 transfers the FC3 stock to UST in exchange for FC2 stock held by UST, and the FC2 stock is canceled.

(ii) *Analysis.* The transfer of FC1 stock to FC3 and the exchange of FC2 stock for FC3 stock by UST pursuant to the reorganization described in section 368(a)(1)(D) are triggering events under paragraphs (d)(1) and (d)(3) of this section. If, however, UST complies with the requirements contained in paragraph (e)(3)(ii) of this section, the transfers will not be triggering events.

Example 3. (i) *Facts.* UST, a domestic corporation, owns 100% of the stock of two foreign corporations, FC1 and FC2. In year 1, UST transfers 100% of the stock of FC1 to FC2 in an exchange to which section 351 applies. The transaction is subject to both sections 367(a) and (b). See §§ 1.367(a)–3(b) and 1.367(b)–1(a). All of the requirements of § 1.367(a)–3(b)(1) are satisfied, and UST enters into a gain recognition agreement. UST also complies with the notice requirement under § 1.367(b)–1(c). In year 4, in a reorganization described in section

368(a)(1)(C), FC1 transfers all of its assets to FC3, an unrelated foreign corporation, in exchange for FC3 stock. FC1 transfers the FC3 stock to FC2 in exchange for the FC1 stock held by FC2 and the FC1 stock is canceled.

(ii) *Analysis.* FC1's transfer of all of its assets to FC3 and FC2's exchange of FC1 stock for FC3 stock pursuant to the reorganization described in section 368(a)(1)(C) are triggering events under paragraphs (d)(2) and (d)(1) of this section, respectively. If, however, UST complies with the requirements contained in paragraph (e)(3)(iii) of this section, the transfers will not be triggering events.

(4) *Certain triangular reorganizations*—(i) *Triangular asset reorganizations of the transferee foreign corporation.* For purposes of this paragraph (e)(4), the term *triangular asset reorganization* means a triangular reorganization described in § 1.358–6(b)(2)(i) through (iii) or in sections 368(a)(1)(G) and (a)(2)(D) where the acquiring subsidiary is foreign. Except to the extent provided in paragraph (f)(1) or (g)(1)(iv) of this section, the exchanges made pursuant to a triangular asset reorganization of the transferee foreign corporation will not be triggering events under paragraph (d)(1) or (d)(3) of this section, and the original gain recognition agreement shall terminate without further effect, if the following conditions are satisfied:

(A) The U.S. transferor or common parent, as applicable, enters into a new gain recognition agreement pursuant to which the U.S. transferor agrees to recognize gain (during the remaining term of the original gain recognition agreement), with respect to the initial transfer, and in which the U.S. transferor agrees to—

(*1*) If the parent corporation of the foreign acquiring subsidiary is foreign, treat such foreign parent as the original transferee foreign corporation for purposes of this section and treat as a triggering event a disposition of the stock of the foreign acquiring subsidiary, or, in the case of a reorganization described in section 368(a)(2)(E), the corporation originally identified as the transferee foreign corporation; and

(*2*) If the parent corporation of the foreign acquiring subsidiary is domestic, treat the foreign acquiring subsidiary as the original transferee foreign corporation for purposes of this section, and apply the principles of paragraph (g) of this section to taxable dispositions by the domestic parent corporation of the foreign acquiring subsidiary or, in the case of a reorganization described in section 368(a)(2)(E), the corporation originally identified as the transferee foreign corporation. In the case of a reorganization described in section 368(a)(2)(E) where the transferee foreign corporation is the merged corporation, rather than the surviving corporation, then the surviving corporation shall be treated as the transferee foreign corporation for purposes of this section.

(B) The U.S. transferor provides with its next annual certification (described in paragraph (b)(5) of this section) the new gain recognition agreement and a notice of the transfer setting forth a full description of the transfer (including the date of such transfer) and the name, address, and taxpayer identification number (if any) for the parent corporation of the foreign acquiring subsidiary.

(ii) *Triangular asset reorganizations of the transferred corporation.* Except to the extent provided in paragraph (f)(1) or (f)(2) of this section, the exchanges made pursuant to a triangular asset reorganization of the transferred corporation will not be triggering events in paragraph (d)(1) or (d)(2) of this section, and the original gain recognition agreement shall terminate without further effect, if the following conditions are satisfied:

(A) The U.S. transferor or common parent, as applicable, enters into a new gain recognition agreement pursuant to which the U.S. transferor agrees to recognize gain (during the remaining term of the original gain recognition agreement), in accordance with the rules of paragraph (b) of this section, with respect to the initial transfer, and in which the U.S. transferor agrees to—

(*1*) Treat a disposition of the stock of the acquiring parent as a triggering event;

(*2*) If the reorganization is a triangular C reorganization or a reorganization described in section 368(a)(2)(D), treat a disposition of the stock of the foreign acquiring subsidiary as a triggering event; and

(*3*) If the reorganization is described in section 368(a)(2)(E) and the merged corporation is the transferred corporation, treat a disposition of the stock of the surviving corporation as a triggering event.

(B) The U.S. transferor provides with its next annual certification (described in paragraph (b)(5) of this section) the new gain recognition agreement and a notice of the transfer setting forth a full description of the transfer (including the date of such transfer) and the name, address, and taxpayer identification number (if any) for the parent corporation of the foreign acquiring subsidiary.

(5) *Compulsory transfers.* A compulsory transfer under § 1.367(a)–4T(f)(2) that is not reasonably foreseeable by the U.S. transferor is not a triggering event under paragraphs (d)(1) through (d)(3) of this section.

(6) *Certain liquidations and upstream reorganizations of the transferred corporation into the transferee foreign corporation*—(i) *General rule.* A transfer of assets by the transferred corporation to the transferee foreign corporation pursuant to a liquidation described in section 332, where the transferee foreign corporation is described in section 332(b)(1), or pursuant to a reorganization described in section 368(a), and related exchanges of stock or securities of the transferred corporation will not be triggering events under paragraph (d)(1) or (d)(2) of this section. The description of this exception that is required to be filed with the annual certification under paragraph (b)(5) of this section must include a description of the transaction. In such a case, the original gain recognition agreement shall continue to apply during the remainder of its term. If, however, in connection with a liquidation described in section 332, the transferred corporation recognizes gain under section 336 with respect to a portion of its assets, such assets shall be treated as disposed of for purposes of paragraph (d)(2) of this section.

(ii) *Example.* The principles of this paragraph (e)(6) are illustrated by the following example:

Example. (i) *Facts.* UST, a domestic corporation, owns 100 percent of the stock of TFD, a foreign corporation. UST transfers all of the TFD stock to newly-formed TFC, a foreign corporation, in an exchange to which section 351 applies. In the exchange, UST receives 100 percent of the voting stock of TFC. The transaction is subject to both sections 367(a) and (b). See §§ 1.367(a)–3(b) and 1.367(b)–1(a). All of the requirements of § 1.367(a)–3(b)(1) are satisfied, and UST enters into a gain recognition agreement to qualify for nonrecognition treatment and does not make the election described in paragraph (b)(1)(vii) of this section. UST also complies with the notice requirement under § 1.367(b)–1(c). Two years after the initial transfer, TFD liquidates into TFC in a transaction described in sections 332 and 337, and UST complies with the requirements of this paragraph (e)(6). Four years after the initial transfer, TFC disposes of substantially all of the assets previously held by TFD.

(ii) *Result.* Because paragraph (d)(2) of this section provides that a disposition of substantially all of the transferred corporation's assets by any person is a triggering event, TFC's disposition of substantially all of the assets previously held by TFD is a triggering event. Under the terms of the gain recognition agreement, UST must amend its return for the year of the initial transfer and include in income the gain realized, but not recognized, on the initial

transfer of the stock of TFD to TFC, and pay any interest charge.

(7) *Death of an individual U.S. transferor.* If the U.S. transferor is an individual and such individual dies, the individual's death will not be a triggering event under paragraph (d)(7) of this section, if—

(i) The person winding up the affairs of the U.S. transferor retains, for the duration of the waiver of the statute of limitations relating to the gain recognition agreement, assets to meet any possible liability of the U.S. transferor under the duration of the gain recognition agreement;

(ii) The person winding up the affairs of the U.S. transferor provides security as provided under paragraph (c) of this section for any possible liability of the U.S. transferor under the gain recognition agreement; or

(iii) The person winding up the affairs of the U.S. transferor obtains a ruling from the Internal Revenue Service providing for successors to the U.S. transferor under the gain recognition agreement.

(8) *Deconsolidation.* A deconsolidation described in paragraph (d)(4) of this section will not be a triggering event, and the original gain recognition agreement shall terminate without further effect, if the following conditions are satisfied:

(i) The U.S. transferor enters into a new gain recognition agreement pursuant to which the U.S. transferor agrees to recognize gain (during the remaining term of the original gain recognition agreement) with respect to the initial transfer and makes the election described in paragraph (b)(1)(vii) of this section.

(ii) The U.S. transferor provides with its next annual certification (described in paragraph (b)(5) of this section) notice of the deconsolidation.

(9) *Consolidation.* A consolidation described in paragraph (d)(5) of this section will not be a triggering event, and the original gain recognition agreement shall terminate without further effect, if the following conditions are satisfied:

(i) The common parent of the consolidated group that includes the U.S. transferor immediately after the consolidation enters into a new gain recognition agreement pursuant to which the U.S. transferor agrees to recognize gain (during the remaining term of the original gain recognition agreement) with respect to the initial transfer and in which it makes the election described in paragraph (b)(1)(vii) of this section.

(ii) The U.S. transferor provides with its next annual certification (described in paragraph (b)(5) of this section) a notice of the consolidation.

(10) *Reasonable cause exception for failure to comply*—(i) *Request for relief.* A failure to comply described in paragraph (d)(8) of this section will not be a triggering event, and the timeliness requirement with respect to a gain recognition agreement shall be considered satisfied notwithstanding a failure to file the agreement in a timely manner, if the person required to file the gain recognition agreement, annual certification, or Form 8838 is able to demonstrate to the Area Director, Field Examination, Small Business/Self Employed or the Director of Field Operations, Large and Mid-Size Business (Director) having jurisdiction of the taxpayer's tax return for the taxable year, that such failure was due to reasonable cause and not willful neglect. In determining whether the person has reasonable cause, the Director shall consider whether the person acted reasonably and in good faith. Whether the person acted reasonably and in good faith will be determined after considering all the facts and circumstances. The Director shall notify the person in writing within 120 days of the filing if it is determined that the failure to comply was not due to reasonable cause, or if additional time will be needed to make such determination. For this purpose, the 120-day period shall begin to run on the date the Service notifies the person in writing that the request has been received and assigned for review. Once such period commences, if the person is not again notified within 120 days, then the person shall be deemed to have established reasonable cause. The reasonable cause exception of this paragraph (e)(10) shall apply only if, once the person becomes aware of the failure to file or comply with the agreement, the person complies with the requirements of paragraph (e)(10)(ii) of this section.

(ii) *Requirements for reasonable cause relief*—(A) *Time of submission.* Requests for reasonable cause relief will only be considered if once the person becomes aware of the failure to file or comply with the agreement, the person attaches all the documents that should have been filed, as well as a complete written statement setting forth the reasons for the failure to timely comply, to an amended return that amends the return to which the documents should have been attached pursuant to the rules of section 367(a) and the regulations under that paragraph.

(B) *Notice requirement.* In addition to the requirement of paragraph (e)(10)(ii)(A) of this section, the person must provide a copy of the amended return and all required attachments to the Director as follows:

(*1*) If the taxpayer is under examination for any taxable year when the person requests relief, the taxpayer must provide a copy of the amended return and attachments to the personnel conducting the examination.

(*2*) If the taxpayer is not under examination for any taxable year when the person requests relief, the taxpayer must provide a copy of the amended return and attachments to the Director having jurisdiction over the taxpayer's return.

(f) *Gain recognized in connection with certain nonrecognition transactions*—(1) *Dispositions of transferred stock or securities*—(i) *General rule.* If a disposition of the transferred stock or securities occurs in connection with a nonrecognition transaction described in paragraph (e)(1)(ii), (e)(2)(i), (e)(3)(ii), (e)(3)(iii), or (e)(4) of this section and gain is recognized by the transferee foreign corporation in connection with the transaction (for example, under sections 351(b) or 356(a)(1)), the U.S. transferor must recognize gain pursuant to the gain recognition agreement as determined under paragraph (f)(1)(ii) of this section. This paragraph (f)(1)(i) shall not apply to the extent that the gain recognized is treated as a dividend under section 356(a)(2).

(ii) *Method for determining amount of gain to be recognized.* The portion of the gain recognition agreement that must be recognized under paragraph (f)(1)(i) of this section, if any, is the gain that would be recognized by the transferee foreign corporation on such disposition (but not in excess of the amount of the gain recognition agreement). For purposes of this paragraph (f)(1)(ii), the gain that would be recognized in the nonrecognition transactions listed in paragraph (f)(1)(i) of this section by the transferee foreign corporation shall be calculated before taking into account any basis increase that may apply under paragraph (b)(3)(iv) of this section as a result of the gain that the U.S. transferor is required to recognize. If the amount of gain that the transferee foreign corporation would be required to recognize is less than the amount of the gain subject to the gain recognition agreement, then the new gain recognition agreement filed pursuant to paragraph (e)(1)(ii), (e)(2)(i), (e)(3)(ii), (e)(3)(iii), or (e)(4) of this section shall provide that the U.S. transferor shall recognize the remaining portion of the gain that was realized, but not recognized, on the initial transfer if a subsequent triggering event occurs.

(iii) *Example.* The rule of this paragraph (f)(1) is illustrated by the following example:

Example. (i) *Facts.* UST, a domestic corporation owning 100% of the stock of TFD, a foreign corporation, transfers all of the TFD stock to newly formed TFC, a foreign corporation, in an exchange to which section 351 applies. In the exchange, UST receives 100% of the stock of TFC. The transaction is subject to both sections 367(a) and (b). See §§ 1.367(a)–3(b) and 1.367(b)–1(a). All of the requirements of § 1.367(a)–3(b)(1) are satisfied, and UST enters into a gain recognition agreement to qualify for nonrecognition treatment and does not make the election contained in paragraph (b)(1)(vii) of this section. UST also complies with the notice requirement under § 1.367(b)–1(c). At the time of the initial transfer, UST has a basis of $50 in the stock of TFD, which has a fair market value of $100. Thus, the amount of gain subject to the gain recognition agreement is $50. Two years after the initial transfer, TFC and X, an unrelated domestic corporation, form CFC, a foreign corporation. TFC transfers the stock of TFD to CFC in an exchange to which section 351 applies. UST also complies with the notice requirement under § 1.367(b)–1(c). At the time of the transfer, TFC's basis in the TFD stock equals $50 and the fair market value remains $100. In the exchange, TFC receives 25% of the stock of CFC and $35 of cash. Before taking into account adjustments made under paragraph (b)(3)(iv) of this section, TFC would recognize $35 of gain under section 351(b). X transfers property to CFC in exchange for the remaining 75% of the CFC stock. Under paragraph (d)(1) of this section, TFC's disposition of the TFD stock is a triggering event. However, UST complies with the requirements of paragraph (e)(1)(ii) of this section providing for an exception to the triggering event.

(ii) *Result.* Under paragraph (f)(1)(ii) of this section, pursuant to the terms of the gain recognition agreement, UST must recognize $35 of the $50 gain realized, but not recognized, on the initial transfer. The new gain recognition agreement that UST files pursuant to paragraph (e)(1)(ii)(C) of this section will reflect the $15 that remains of the gain realized, but not recognized, on the initial transfer. Under paragraph (b)(3)(iv)(A) of this section, TFC's basis in the TFD stock is increased (as of the date of the initial transfer) by $35 to $85. Under paragraph (b)(3)(iv)(B) of this section, UST's basis in the TFC stock is also increased by $35. Finally, after taking account of adjustments under paragraph (b)(3)(iv) of this section, TFC must recognize $15 of gain under section 351(b).

(2) *Dispositions of substantially all of the transferred corporation's assets.* If a disposition of substantially all of the assets of the transferred corporation occurs in connection with a nonrecognition transaction described in paragraph (e)(1)(iii), (e)(3)(iii), or (e)(4)(ii) of this section and gain is recognized on such disposition (for example, under section 351(b) or 356(a)(1)), the U.S. transferor must recognize gain pursuant to the gain recognition agreement to the extent of such gain recognized (but not in excess of the gain realized, but not recognized, on the initial transfer). This paragraph (f)(2) shall not apply to the extent that recognized gain is treated as a dividend under section 356(a)(2).

(g) *Transactions that terminate the gain recognition agreement or reduce the amount of gain required to be recognized pursuant to a gain recognition agreement.* Notwithstanding paragraph (d) of this section, the following events shall not constitute triggering events and instead shall either terminate the gain recognition agreement, or reduce the amount of gain required to be recognized pursuant to a gain recognition agreement:

(1) *Taxable disposition of stock of the transferee foreign corporation by U.S. transferor*—(i) *General rule.* If the U.S. transferor disposes of all the stock of the transferee foreign corporation that is received (or deemed received) in the initial transfer, then the gain recognition agreement shall terminate without further effect if—

(A) Immediately before the disposition, the aggregate basis of the transferee foreign corporation stock disposed of does not exceed the sum of the aggregate basis of the transferred stock or securities immediately before the initial transfer plus any increase in the basis of such stock or securities as a result of the recognition of gain on the initial transfer. For purposes of this paragraph (g)(1)(i)(A), an increase in basis of the stock disposed of as a result of an income inclusion with respect to such stock (for example, pursuant to section 961) shall not be taken into account; and

(B) All realized gain (if any) in the stock disposed of is recognized currently and included in taxable income as a result of the disposition.

(ii) *Partial dispositions*—(A) *General rule.* If the U.S. transferor disposes of a portion of the stock of the transferee foreign corporation that is received (or deemed received) in the initial transfer in a transaction that satisfies the conditions described in paragraphs (g)(1)(i)(A) and (B) of this section, such disposition will not be a triggering event and the gain recognition shall remain in effect. For purposes of determining whether the condition described in paragraph (g)(1)(i)(A) of this section is satisfied, however, the aggregate basis of the stock of the transferee foreign corporation disposed of is compared to the aggregate basis of the transferred stock or securities exchanged for such stock at the time of the initial transfer.

(B) *Subsequent triggering event.* If the gain recognition agreement is triggered after a disposition described in paragraph (g)(1)(ii)(A) of this section, the U.S. transferor shall be required to recognize only a proportionate amount of the gain subject to the gain recognition agreement that otherwise would be required to be recognized on a subsequent triggering event. Except as provided in paragraph (g)(1)(iv) of this section, the proportion required to be recognized shall be determined by reference to the percentage of stock (based on relative fair market value) of the transferee foreign corporation received (or deemed received) in the initial transfer that is retained by the U.S. transferor.

(iii) The rule of paragraph (g)(1)(ii) of this section is illustrated by the following example:

Example. (1) *Facts.* A, a United States citizen, owns 100% of the outstanding stock of foreign corporation X. In a transaction to which section 351 applies, A exchanges his stock in X (and other assets) for 100% of the outstanding stock of foreign corporation Y. The transaction is subject to both sections 367(a) and (b). See §§ 1.367(a)–3(b) and 1.367(b)–1(a). A enters into a gain recognition agreement, makes the election contained in paragraph (b)(1)(vii) of this section, and also complies with the notice requirement under § 1.367(b)–1(c). In the second year following the initial transfer, A disposes of 60% of the fair market value of the stock of Y, and the requirements of paragraphs (g)(1)(i)(A) and (B) are met with respect to such disposition. In the fourth year following the initial transfer, Y disposes of 50% of the fair market value of the stock of X.

(ii) *Result.* The disposition of 60% of the stock of Y is not a triggering event, and the gain recognition agreement continues in effect. The disposition of X stock, however, is a triggering event under paragraph (d)(1)(i) of this section. As a result of the subsequent disposition of 50% of the stock of X, under paragraphs (d)(1)(iii) and (g)(1)(ii)(B) of this section, A is required to include in income in the year of such disposition 20% (40% of the fair market value of Y multiplied by 50% of the fair market value of X) of the gain that A realized but did not recognize on the initial transfer of the X stock to Y, and pay any applicable interest.

(iv) *Certain nonrecognition transactions.* The rules described in these paragraphs (g)(1)(iv)(A) through (C) apply if the U.S. transferor disposes of all or a portion of the stock of the transferee foreign corporation received (or deemed received) in the initial transfer pursuant to a nonrecognition transaction described in paragraph (e)(1)(i), (e)(2)(ii), (e)(3)(i), or (e)(3)(ii) of this section, the condition described in paragraph (g)(1)(i)(A) of this section is satisfied with respect to such disposition, and gain is recognized in

connection with the disposition (for example, under sections 351(b), 356(a)(1), or 336). If, however, only a portion of the stock of the transferee corporation stock is disposed of pursuant to this paragraph (g)(1)(iv), then for purposes of determining whether the condition described in paragraph (g)(1)(i)(A) of this section is satisfied, the aggregate basis of the stock disposed of is compared to the aggregate basis of the transferred stock or securities exchanged for such stock at the time of the initial transfer.

(A) *U.S. transferor files new gain recognition agreement.* This paragraph (g)(1)(iv)(A) applies if the U.S. transferor (or successor U.S. transferor, as applicable) enters into a new gain recognition agreement as provided in paragraph (e)(1)(i), (e)(3)(i), or (e)(3)(ii) of this section, as applicable. In such a case, the amount of gain subject to the new gain recognition agreement shall equal the amount of gain realized, but not recognized, on the initial transfer, less any gain recognized by the U.S. transferor in connection with the nonrecognition transaction. If the amount of gain recognized on the transfer is equal to or greater than the amount of gain realized, but not recognized, on the initial transfer, then the original gain recognition agreement shall terminate without further effect.

(B) *U.S. transferor does not file a new gain recognition agreement.* This paragraph (g)(1)(iv)(B) applies if the U.S. transferor (or successor U.S. transferor, as applicable) fails to enter into a new gain recognition agreement as provided in paragraph (e)(1)(i), (e)(3)(i), or (e)(3)(ii) of this section, as applicable. In such a case, the amount required to be recognized by the U.S. transferor pursuant to the gain recognition agreement shall be the amount of gain realized, but not recognized, on the initial transfer, less any gain recognized by the U.S. transferor in connection with the nonrecognition transaction.

(C) *Special rule for recapitalizations.* Because paragraph (e)(2)(ii) of this section does not require the U.S. transferor to enter into a new gain recognition agreement, the amount of gain subject to the gain recognition agreement shall equal the amount of gain realized, but not recognized, on the initial transfer, less any gain recognized by the U.S. transferor in connection with the nonrecognition transaction described in paragraph (e)(2)(ii) of this section.

(v) *Election to reduce basis*—(A) *General rule.* For purposes of paragraphs (g)(1)(i), (ii) and (iv) of this section, the U.S. transferor may elect to reduce its aggregate basis in the stock disposed of effective immediately before the disposition such that the condition described in paragraph (g)(1)(i)(A) is satisfied. If an election is made pursuant to this paragraph (g)(1)(v), the U.S. transferor may increase its basis in other stock of the transferee foreign corporation it holds, if any, by a corresponding amount but not above the fair market value of such stock.

(B) *Election.* The election pursuant to this paragraph (g)(1)(v) is made by filing with the U.S. transferor's income tax return for the taxable year in which the disposition of the transferee foreign corporation stock occurs, a statement setting forth the following information, with the heading ''Election to Reduce Stock Basis Under § 1.367(a)–8T(g)(1)(v)'':

(*1*) A description of the transferee foreign corporation stock that the U.S. transferor has disposed of.

(*2*) An estimate of the fair market value of the stock as of the date of the disposition.

(*3*) A comparison of the basis of the transferee foreign corporation stock before and after the election that is made pursuant to this paragraph (g)(1)(v).

(*4*) The date on which the transferee foreign corporation stock was disposed of by the U.S. transferor.

(vi) The rules of paragraph (g)(1) of this section are illustrated by the following examples:

Example 1. (i) *Facts.* USP, a domestic corporation, owns 100% of the stock of two foreign corporations, FC1 and FC2. The basis and fair market value of the FC1 stock is $100 and $90, respectively. The basis and fair market value of the FC2 stock is $0 and $100, respectively. USP also owns land that has a basis and fair market value of $10. In year 1, USP transfers 100% of the stock of FC1 and FC2 and the land to FC3, a newly formed foreign corporation, in exchange for 20 shares of FC3 stock. The transfer of the stock of FC1 and FC2 qualifies under section 351 and section 368(a)(1)(B). The transfer of the land qualifies under section 351. The transfer of the FC2 stock is subject to both section 367(a) and (b). See §§ 1.367(a)–3(b) and 1.367(b)–1(a). Pursuant to § 1.367(a)–3(b)(1)(ii) and this section, USP enters into a gain recognition agreement with respect to the $100 of gain in the FC2 stock and complies with the notice requirement under § 1.367(b)–1(c). USP takes the position that its basis in each of the 20 shares of FC3 stock received in the transfer equals $5.5 (($100+$0+10)/20). In year 3, USP sells 100% of its FC3 stock to an unrelated person for cash.

(ii) *Result.* The disposition of the FC3 stock is a triggering event described in paragraph (d)(3) of this section. The disposition does not terminate the gain recognition agreement pursuant to paragraph (g)(1)(i) of this section because USP takes the position that the basis of each of the 10 shares of FC3 stock it received in exchange for the FC2 stock in the initial transfer equals $5.5. Thus, the total basis in the 10 shares received for the FC2 stock equals $55, which exceeds the $0 basis USP had in the FC2 stock it transferred to FC3 in the initial transfer. As a result, the condition described in paragraph (g)(1)(i)(A) of this section is not satisfied. USP may, however, elect to reduce its basis in 10 of the FC3 shares it disposes of from $5.5 to $0, and increase its basis in its remaining 10 shares of FC2 stock by $5.5, pursuant to paragraph (g)(1)(v) of this section. As a result, the condition described in paragraph (g)(1)(i)(A) of this section would be satisfied, the disposition would not be a triggering event, and the gain recognition would terminate without further effect.

Example 2. (i) *Facts.* USP, a domestic corporation, owns 100% of the stock of FC1, a foreign corporation. The basis and fair market value of the FC1 stock is $0 and $80, respectively. In year 1, USP transfers 100% of the stock of FC1 to FC2, a newly formed foreign corporation, in exchange for 20 shares of FC2 stock. The transfer of the stock of FC1 qualifies under section 351 and section 368(a)(1)(B). The transfer of the FC1 stock is subject to both section 367(a) and (b). See §§ 1.367(a)–3(b) and 1.367(b)–1(a). Pursuant to § 1.367(a)–3(b)(1)(ii) and this section, USP enters into a gain recognition agreement with respect to the $80 of gain in the FC1 stock and complies with the notice requirement under § 1.367(b)–1(c). USP's basis and fair market value in the FC2 stock it receives at the time of the transfer is $0 and $80, respectively. In year 3, when the fair market value of the FC2 stock continues to equal $80, USP transfers land that has a basis and fair market value of $20 to FC2 in a transfer that qualifies under section 351, but does not receive additional shares of FC2 in connection with such transfer. In year 5, USP sells 100% of its FC2 stock to an unrelated person for cash.

(ii) *Result.* The disposition of the FC3 stock is a triggering event described in paragraph (d)(3) of this section. The disposition would not terminate the gain recognition agreement pursuant to paragraph (g)(1)(i) of this section if the basis in each of the 20 FC2 shares that USP sells equals $1 ($20/20 shares) because immediately before the disposition the basis in the FC2 shares received for the FC1 shares exceeds the basis of the FC1 shares at the time of the initial transfer. As a result, the condition described in paragraph (g)(1)(i)(A) of this section would not be satisfied. USP may, however, elect to adjust its basis in its FC2 shares such that 16 of the shares have zero basis (reflecting the basis of the FC1 stock) and 4 of the shares have $20 of basis (reflecting the basis of the land). In such a case, the condition described in paragraph (g)(1)(i)(A) of this section would be satisfied, the disposition would not be a triggering event, and the gain recognition agreement would terminate without further effect.

(2) *Certain dispositions by a domestic transferred corporation of substantially all of its assets.* If, immediately before the initial transfer, the U.S. transferor owned an amount of stock in the transferred corporation described in

section 1504(a)(2), and the transferred corporation is domestic, then the gain recognition agreement shall terminate without further effect if the transferred corporation disposes of substantially all of its assets in a transaction in which all realized gain is recognized currently. If an indirect stock transfer necessitated the filing of the gain recognition agreement, such agreement shall terminate if, immediately before the indirect transfer, the U.S. transferor owned an amount of stock in the acquired corporation described in section 1504(a)(2) (or, in the case of a section 368(a)(1)(A) and (a)(2)(E) reorganization described in § 1.367(a)–3(d)(1)(ii), the U.S. transferor owned an amount of stock in the acquiring corporation described in section 1504(a)(2)) and the transferred corporation disposes of substantially all of its assets (taking into account § 1.367(a)–3(d)(2)(v)) in a transaction in which all realized gain is recognized currently.

(3) *Distribution or transfer by transferee foreign corporation of stock or securities of transferred corporation under section 337, 355 or 361*—(i) *Scope.* This paragraph (g)(3) applies if the transferee foreign corporation distributes or transfers the stock or securities that initially necessitated the filing of the gain recognition agreement (and any additional stock received after the initial transfer) pursuant to any of the following transactions:

(A) A liquidating distribution to the U.S. transferor or a domestic corporation that is a member of the same consolidated group of which the U.S. transferor is then a member and that qualifies under sections 332 and 337, if such domestic distributee corporation is described in section 332(b)(1).

(B) A distribution to the U.S. transferor, a domestic corporation that is a member of the same consolidated group of which the U.S. transferor is a member, or an individual that is a United States person, that qualifies under section 355.

(C) A transfer to the U.S. transferor or a domestic corporation that is a member of the same consolidated group of which the U.S. transferor is then a member and to which section 361 applies (but, if in connection with a reorganization described in section 368(a)(1)(D) or (G), only if the requirements of section 354(b)(1)(A) and (B) are met).

(ii) *General rule.* If a distribution or transfer is described in paragraph (g)(3)(i) of this section, the gain recognition agreement shall terminate without further effect, provided that immediately after such distribution or transfer the basis in the transferred stock or securities in the hands of the domestic corporation or individual, as applicable, does not exceed the basis that the U.S. transferor had in the transferred stock or securities immediately before the initial transfer. For purposes of this paragraph (g)(3)(ii), only the basis in the stock or securities transferred shall be taken into account, and increases to stock basis as a result of income inclusions with respect to stock (for example, pursuant to section 961) shall not be taken into account. In the case of a transaction described in paragraph (g)(3)(i)(B) of this section, any reductions or redistributions of stock basis under § 1.367(b)–5(c)(2) or (4), respectively, shall be made before applying the rules of this paragraph (g)(3)(ii).

(iii) *Election to reduce basis in stock or securities of transferred corporation.* For purposes of paragraph (g)(3)(ii) of this section, the domestic corporation or individual, as applicable, may elect to reduce the basis in the stock or securities transferred to equal the basis the U.S. transferor had in the corresponding transferred stock or securities immediately before the initial transfer, such that the gain recognition agreement shall terminate without further effect. If such an election is made, the domestic corporation or individual may increase its basis in other stock of the transferred corporation it holds, if any, by a corresponding amount but not above the fair market value of such stock.

(iv) *Election.* The election pursuant to paragraph (g)(3)(iii) of this section is made by filing with the domestic corporation's or individual's income tax return for the taxable year in which the distribution or transfer occurs, a statement setting forth the following information, with the heading ''Election to Reduce Stock Basis Under § 1.367(a)–8T(g)(3)(iii)'':

(*1*) A description of the stock or securities received.

(*2*) An estimate of the fair market value of the stock or securities as of the date of their receipt.

(*3*) A statement comparing the basis of the stock or securities before and after the election.

(*4*) The date on which the stock or securities were received.

(v) *Examples.* The rules of paragraph (g)(3) of this section are illustrated by the following examples:

Example 1. (i) *Facts.* USP, a domestic corporation, owns 100% of the stock of two foreign corporations, FC1 and FC2. FC1 has 10 shares of stock issued and outstanding. In year 1, when the basis and fair market value of the FC1 stock is $0 and $90, respectively, USP transfers its 10 shares of FC1 stock to FC2 in an exchange to which section 351 applies. The transaction is subject to both sections 367(a) and (b). See §§ 1.367(a)–3(b) and 1.367(b)–1(a). Pursuant to § 1.367(a)–3(b)(1)(ii) and this section, USP enters into a gain recognition agreement with respect to such transfer. USP also complies with the notice requirement under § 1.367(b)–1(c). In year 2, FC2 transfers land with a basis and fair market value of $10 to FC1 in exchange for one newly issued share of FC1 stock. In year 4, FC2 distributes all of its FC1 stock to USP in a liquidating distribution that qualifies under sections 332 and 337.

(ii) *Result.* In determining whether the gain recognition agreement entered into by USP is terminated under paragraph (g)(3) of this section, or in the alternative triggered under paragraph (d)(1) of this section, only the stock of FC1 transferred by USP to FC2 in year 1 is considered. Thus, the basis in the one share of FC1 stock issued to FC2 in year 2 in exchange for land is not taken into account. If instead of FC1 actually issuing another share of stock to FC2 in exchange for the land, FC1 was deemed to issue stock to FC2 in such exchange, then the gain recognition agreement would terminate only if USP elects to adjust the basis in its FC1 shares such that nine of the shares have zero basis and one of the shares has $10 of basis.

Example 2. (i) *Facts.* USP, a domestic corporation, owns 100% of the stock of two foreign corporations, FC and FD. In year 1, USP transfers 100% of the stock of FC to FD in an exchange to which section 351 applies. The transaction is subject to both sections 367(a) and (b). See §§ 1.367(a)–3(b) and 1.367(b)–1(a). At the time of the initial transfer, USP has a basis of $80 in its stock of FC; the stock of FC has a fair market value of $100. USP's basis in its stock of FD, and the fair market value of the FD stock, are both $100. Pursuant to § 1.367(a)–3(b)(1)(ii) and this section, USP enters into a gain recognition agreement with respect to the initial transfer. USP also complies with the notice requirement under § 1.367(b)–1(c). In year 4, FD distributes all of the stock of FC to USP in a pro rata distribution to which section 355 applies. At the time of the distribution, the fair market value of the FC stock has increased to $200, while the fair market value of the FD stock has remained $100. Under section 358, USP allocates its $180 predistribution basis in its FD stock between the FD stock and FC stock according to the stock blocks' relative fair market values, yielding a $60 basis in the FD stock and a $120 basis in the FC stock. Immediately before the distribution, USP's section 1248 amount with respect to FC and FD is zero.

(ii) *Result.* The distribution of FC stock is a triggering event under paragraph (d)(1) of this section. The distribution does not terminate the gain recognition agreement under paragraph (g)(3) of this section because after the distribution, USP's basis of $120 in the FC stock exceeds the $80 basis that USP had in the FC stock at the time of the initial transfer. If, however, USP elects to reduce its basis in the FC stock it receives to $80, then the condition described in paragraph (g)(3) of this section will be satisfied, and the gain

recognition agreement will terminate without further effect. In addition, the $40 of basis that USP elected to reduce is redistributed to the stock of FD, the result of which is that USP has a basis of $100 in its FD stock.

(h) *Effective date*—(1) *General rule*—(i) *Gain recognition agreements filed for transfers on or after effective date.* With the exception of paragraph (f) of this section, the rules of this section apply to gain recognition agreements filed with respect to transfers of stock or securities under Treas. Reg. §§ 1.367(a)–3(b) through (d) and 1.367(a)–3T(e) occurring on or after March 7, 2007. The rules of paragraph (f) of this section apply to gain recognition agreements filed with respect to transfers of stock or securities under Treas. Reg. §§ 1.367(a)–3(b) through (d) and 1.367(a)–3T(e) occurring on or after August 6, 2007. However, the rules of this section do not apply to gain recognition agreements filed with respect to such a transfer of stock or securities occurring on or after March 7, 2007, if such transfer was entered into pursuant to a written agreement which was (subject to customary conditions) binding before February 5, 2007, and at all times thereafter. Solely for purposes of this paragraph (h), a transfer described in the preceding sentence shall be deemed to be a transfer occurring before March 7, 2007 to which the rules of § 1.367(a)–8 (see 26 CFR part 1, revised April 1, 2006) apply. See paragraph (h)(2)(iii) of this section for the ability to apply the rules of this section with respect to gain recognition agreements filed before March 7, 2007.

(ii) *Gain recognition agreements filed for transfers before effective date.* For matters covered in this section for periods before March 7, 2007 but on or after July 20, 1998, the corresponding rules of § 1.367(a)–8 (see 26 CFR part 1, revised April 1, 2006) apply. For matters covered in this section for periods before July 20, 1998, the corresponding rules of § 1.367(a)–3T(g) (see 26 CFR part 1, revised April 1, 1998) and Notice 87–85 ((1987–2 CB 395); see § 601.601(d)(2)(ii) of this chapter) apply. In addition, if a U.S. transferor entered into a gain recognition agreement for transfers before July 20, 1998, then the rules of § 1.367(a)–3T(g) (see 26 CFR part 1, revised April 1, 1998) continue to apply in lieu of this section in the event of any direct or indirect nonrecognition transfer of the same property. See also, § 1.367(a)–3(h).

(2) *Applicability to gain recognition agreements filed before effective date*—(i) *General rule.* This paragraph (h)(2)(i) applies only to rules in this regulation § 1.367(a)–8T that were not already effective under the rules of § 1.367(a)–8 (see 26 CFR part 1, revised April 1, 2006). Taxpayers may apply all or part of these regulations to gain recognition agreements filed with respect to transfers of stock or securities, for all open years, on or after July 20, 1998. If a taxpayer failed to file a gain recognition agreement with respect to a transfer of stock or securities on or after July 20, 1998 and before March 7, 2007, the taxpayer must first obtain reasonable cause relief under § 1.367(a)-8(c)(2) to file the gain recognition agreement before the taxpayer may apply this paragraph (h)(2)(i).

(ii) *Special filing rule for tax year ending before effective date.* This paragraph (h)(2)(ii) provides the time and manner in which taxpayers may apply paragraph (h)(2)(i) of this section. Notwithstanding the rules provided in § 1.367(a)–8T(a)(2), all agreements, certifications, or other information related to such gain recognition agreement that should have been filed on or before March 7, 2007 shall be treated as having been timely filed, provided they are attached to a Federal income tax return amending the taxpayer's Federal income tax return for the taxable year in which they should have been attached. The amended return described in the preceding sentence must be filed before August 6, 2007. A taxpayer that wishes to apply paragraph (h)(2)(i) of this section but that fails to meet the filing requirement described in the preceding sentence must request reasonable cause relief as provided in paragraph (e)(10) of this section.

(iii) *Tax year ending after effective date.* A taxpayer that entered into a gain recognition agreement to which § 1.367(a)–8 (see 26 CFR part 1, revised April 1, 2006) applies may apply the rules of this section in a tax year ending on or after March 7, 2007 by attaching the agreement, certification, or other information related to such gain recognition agreement that the rules of this section require in accordance with the rules of this section and with the time and manner rules provided in § 1.367(a)–8T(a)(2).

(iv) *Examples.* The rules of paragraph (h)(2) of this section are illustrated by the following examples:

Example 1. (i) *Facts.* USP, a domestic corporation, owns 100% of the stock of two foreign corporations, FC and FD. In 2003, USP transfers 100% of the stock of FC to FD in an exchange to which section 351 applies. The transaction is subject to both sections 367(a) and (b). See §§ 1.367(a)–3(b) and 1.367(b)–1(a). Pursuant to § 1.367(a)–3(b)(1)(ii) and this section, USP enters into a gain recognition agreement with respect to the initial transfer. USP also complies with the notice requirement under § 1.367(b)–1(c). In 2005, FD distributes all of the stock of FC to USP in a pro rata distribution to which section 355 applies. Under section 358, USP's basis in its FC stock exceeds the basis that USP had in FC immediately before the initial transfer.

(ii) *Result.* Under paragraph (h)(1)(ii) of this section, the rules of § 1.367(a)–8 apply because the gain recognition agreement was filed before March 7, 2007. As a result of the year 2005 transaction, under § 1.367(a)–8(e)(1), USP is required to recognize all of the gain subject to the gain recognition agreement, and pay any applicable interest. The gain recognition agreement does not terminate under § 1.367(a)–8(h)(3) because USP's basis in its FC stock immediately after the section 355 distribution exceeds the basis USP had in the FC stock immediately before the initial transfer. However, paragraph (g)(3)(iii) of this section provides a rule that would allow USP to elect to reduce its basis in the FC stock such that the conditions in paragraph (g)(3) of this section would be satisfied and the gain recognition agreement would terminate without further effect. Under paragraph (h)(2)(i) of this section, USP may apply paragraph (g)(3)(iii) of this section to the 2005 transaction, if 2005 is an open year, because the rule provided in paragraph (g)(3)(iii) of this section was not already effective under § 1.367(a)–8. Under paragraph (h)(2)(ii) of this section, USP must submit the documents required under paragraph (g)(3)(iii) of this section to a Federal income tax return amending its 2005 Federal income tax return before August 6, 2007.

Example 2. (i) *Facts.* UST, a domestic corporation, owns 100% of the stock of two foreign corporations, TFC and TFD. In 2003, USP transfers 100% of the stock of TFD to TFC in an exchange to which section 351 applies. The transaction is subject to both sections 367(a) and (b). See §§ 1.367(a)–3(b) and 1.367(b)–1(a). All of the requirements of § 1.367(a)–3(b)(1) are satisfied, and UST enters into a gain recognition agreement. UST also complies with the notice requirement under § 1.367(b)–1(c). In 2005, TFC transfers its TFD stock to F1, also a foreign corporation, in an exchange to which section 351 applies. UST does not file a new gain recognition agreement under § 1.367(a)–8(g)(2).

(ii) *Result.* Under paragraph (h)(1)(ii) of this section, the rules of § 1.367(a)–8 apply because the gain recognition agreement was filed before March 7, 2007. Under § 1.367(a)–8(e), UST must recognize the gain realized, but not recognized, on its initial transfer of TFD stock. Paragraph (h)(2)(i) of this section does not apply because the rule in paragraph (e)(1)(ii) of this section was already effective under § 1.367(a)–8(g)(2). Therefore, UST's only recourse from recognizing the gain subject to the gain recognition agreement is the reasonable cause exception provided in § 1.367(a)–8(c)(2).

(3) *Expiration.* The applicability of this section expires on or before February 1, 2010.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 7.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 8.** In § 602.101, paragraph (b) is revised by adding an entry for § 1.367(a)–8T in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.367(a)–8T	1545–2056
* * * * *	

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

Approved: January 31, 2007.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 07–490 Filed 2–1–07; 8:52 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of FEMA has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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 final rule involves no policies that have federalism implications under Executive Order 13132.

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

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

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Baldwin County, Alabama and Incorporated Areas Docket No.: FEMA–B–7456			
D'Olive Creek	Just upstream of Lake Forest Dam	+25	City of Daphne.
	Just downstream of U.S. Highway 90	+35	
Tiawasee Creek	Confluence with D'Olive Creek at Lake Forest	+25	City of Daphne.
	Approximately 1,500 feet upstream of Ridgewood Drive	+60	
Styx River	Just downstream of Truck Route 17 (Brady Road)	+77	Baldwin County (Unincorporated Areas).
	Approximately 3,100 feet upstream of Pinegrove Road	+168	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ National American Vertical Datum.

ADDRESSES

Baldwin County (Unincorporated Areas)

Maps are available for inspection at the Baldwin County Building Department, 201 East Section Street, Foley, Alabama 36535.

City of Daphne

Maps are available for inspection at the Department of Community Development, 2651 Equity Drive, Daphne, Alabama 36526.

Carroll County, Kentucky and Incorporated Areas
Docket No.: FEMA–B–7470

Ohio River	Western County boundary with Trimble County	+465	Carroll County (Unincorporated Areas).
	Eastern County boundary with Gallatin County	+472	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ National American Vertical Datum.

ADDRESSES

Carroll County Unincorporated Areas

Maps are available for inspection at Carroll Emergency Operations Center, 829 Polk Street, Carrollton, Kentucky 41008.

Halifax County, North Carolina and Incorporated Areas
Docket Nos.: FEMA–D–7660, B–7465, and D–7560

Bear Swamp	Approximately 500 feet upstream of the confluence with Little Fishing Creek.	+161	Halifax County (Unincorporated Areas).
	Approximately 3.4 miles upstream of Airlie Road	+214	
Beaverdam Swamp	Approximately 0.6 mile upstream of the confluence with Marsh Swamp.	+82	Halifax County (Unincorporated Areas).
	Approximately 1.5 miles upstream of Interstate 95	+132	
Beaverdam Swamp Tributary	At the confluence with Beaverdam Swamp	+106	Halifax County (Unincorporated Areas).
	Approximately 1.5 miles upstream of Beaverdam Road	+120	
Beech Swamp	At the confluence with Fishing Creek	+62	Halifax County (Unincorporated Areas), Town of Enfield.
	Approximately 0.5 mile upstream of the confluence of Beech Swamp Tributary 1.	+77	
Tributary 1	At the confluence with Beech Swamp	+75	Halifax County (Unincorporated Areas).
	Approximately 700 feet upstream of Thirteen Bridges Road	+103	
Tributary 2	At the confluence with Beech Swamp Tributary 1	+77	Halifax County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Loop Road	+93	
Tributary 3	Approximately 0.5 mile upstream of the confluence with Beech Swamp.	+81	Halifax County (Unincorporated Areas), Town of Enfield.
	Approximately 1.4 miles upstream of the confluence with Beech Swamp.	+97	
Bells Branch	At the confluence with Chockoyotte Creek	+116	City of Roanoke Rapids
	Approximately 850 feet upstream of the confluence with Chockoyotte Creek.	+116	
Bens Creek	At the confluence with Little Fishing Creek	+186	Halifax County (Unincorporated Areas).
	Approximately 1.5 miles upstream of the Halifax/Warren County boundary.	+199	
Breeches Swamp	At the confluence with Jacket Swamp	+95	Halifax County (Unincorporated Areas).
	Approximately 0.8 mile upstream of Ringwood Road	+107	
Burnt Coat Swamp	Approximately 0.5 mile downstream of Justice Branch Road.	+81	Halifax County (Unincorporated Areas), Town of Enfield.
	Approximately 2.0 miles upstream of the confluence of Jacket Swamp.	+102	
Butterwood Creek	At the confluence with Bear Swamp	+176	Halifax County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 1.3 miles upstream of Cold Mine School Road.	+267	
Chockoyotte Creek	At the confluence with Roanoke River	+57	Halifax County (Unincorporated Areas), City of Roanoke Rapids, Town of Weldon.
	Approximately 2.0 miles upstream of Zoo Road	+202	
Chockoyotte Creek Tributary	At the confluence with Chockoyotte Creek	+79	Town of Weldon, City of Roanoke Rapids, Halifax County (Unincorporated Areas).
	Approximately 30 feet downstream of County Road	+87	
Tributary A	At the confluence with Chockoyotte Creek	+94	Halifax County (Unincorporated Areas), City of Roanoke Rapids.
	Approximately 1,490 feet upstream of American Legion Road.	+135	
Tributary B	At the confluence with Chockoyotte Creek	+114	City of Roanoke Rapids.
	Approximately 40 feet downstream of Julian R. Allsbrook Highway.	+127	
Conoconnara Swamp	At the confluence with Roanoke River	+43	Halifax County (Unincorporated Areas).
	Approximately 1,000 feet upstream of NC–481	+80	
Tributary 1	At the confluence with Conoconnara Swamp	+58	Halifax County (Unincorporated Areas).
	Approximately 3.5 miles upstream of the confluence with Conoconnara Swamp.	+67	
Tributary 2	At the confluence with Conoconnara Swamp	+72	Halifax County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Conoconnara Swamp.	+78	
Tributary 2A	At the confluence with Conoconnara Swamp Tributary 2	+77	Halifax County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Conoconnara Swamp.	+85	
Tributary 3	At the confluence with Conoconnara Swamp	+75	Halifax County (Unincorporated Areas).
	Approximately 0.6 mile upstream of NC–481	+80	
Deep Creek	At the Halifax-Edgecombe County boundary	+61	Halifax County (Unincorporated Areas).
	Approximately 150 feet downstream of Moonlight Road (SR 1003).	+101	
Deep Creek (into Roanoke River).	Approximately 0.7 mile downstream of Thelma Road (SR 1400).	+133	Halifax County (Unincorporated Areas).
	Approximately 80 feet downstream of Roper Springs Road (SR 1525).	+189	
Tributary 1	At the confluence with Deep Creek (into Roanoke River)	+136	Halifax County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Deep Creek (into Roanoke River).	+151	
Tributary 2	At the confluence with Deep Creek (into Roanoke River)	+146	Halifax County (Unincorporated Areas).
	Approximately 1,375 feet upstream of the confluence with Deep Creek (into Roanoke River) Tributary 2A.	+162	
Tributary 2A	At the confluence with Deep Creek (into Roanoke River) Tributary 2.	+146	Halifax County (Unincorporated Areas).
	Approximately 1,300 feet upstream of the confluence with deep Creek (into Roanoke River) Tributary 2.	+159	
Tributary 4	At the confluence with Deep Creek (into Roanoke River)	+175	Halifax County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Deep Creek (into Roanoke River).	+181	
Tributary 3	At the confluence with Deep Creek (into Roanoke River)	+154	Halifax County (Unincorporated Areas).
	Approximately 1,700 feet upstream of the confluence with Deep Creek (into Roanoke River).	+163	
Deep Creek Tributary	At the confluence with Deep Creek	+86	Halifax County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 1.5 miles upstream of Thirteen Bridges Road.	+106	
Tributary 5	At the confluence with Deep Creek	+62	Halifax County (Unincorporated Areas), Town of Hobgood.
	Approximately 0.5 mile upstream of the confluence with Deep Creek Tributary 6.	+77	
Tributary 6	At the confluence with Deep Creek Tributary 5	+76	Halifax County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Deep Creek Tributary 5.	+79	
Tributary 7	At the confluence with Deep Creek	+67	Halifax County (Unincorporated Areas).
	Approximately 2.1 miles upstream of the confluence with Deep Creek.	+77	
Fishing Creek	At the Halifax-Edgecome County boundary	+60	Halifax County (Unincorporated Areas).
	At the Halifax-Warren County boundary	+165	
Tributary 4	At the confluence with Fishing Creek	+81	Halifax County (Unincorporated Areas).
	Approximately 500 feet upstream of Thirteen Bridges Road	+101	
Tributary 5	At the confluence of Fishing Creek	+90	Halifax County (Unincorporated Areas), Town of Enfield.
	Approximately 0.7 mile upstream of South Dennis Street	+102	
Hales Branch	At the upstream side of Zoo Road South	+215	Halifax County (Unincorporated Areas).
	Approximately 1,200 feet upstream of Zoo Road South	+227	
Hales Mill Pond Branch	At the confluence with Conoconnara Swamp	+67	Halifax County (Unincorporated Areas).
	Approximately 300 feet upstream of Old 125 Road (SR 1103).	+73	
Jacket Swamp	At the confluence with Burnt Coat Swamp	+90	Halifax County (Unincorporated Areas).
	Approximately 0.8 mile upstream of 95	+115	
Keehukee Swamp	At the confluence with Roanoke River	+28	Halifax County (Unincorporated Areas).
	Approximately 250 feet downstream of Railroad	+61	
Tributary 1	At the confluence with Keehukee Swamp	+28	Halifax County (Unincorporated Areas).
	Approximately 1,650 feet upstream of the confluence with Keehukee Swamp.	+28	
Tributary 2	Approximately 2.1 miles upstream of the confluence with Keehukee Swamp.	+47	Halifax County (Unincorporated Areas).
	At the confluence with Keehukee Swamp	+29	
Little Fishing Creek	Approximately 0.3 mile upstream of confluence with Bear Swamp.	+161	Halifax County (Unincorporated Areas).
	At the Halifax-Warren County boundary	+186	
Tributary 1	At the confluence with Little Fishing Creek	+165	Halifax County (Unincorporated Areas).
	Approximately 0.4 mile upstream of confluence of Little Fishing Creek Tributary 3.	+227	
Tributary 2	At the confluence with Little Fishing Creek Tributary 1	+200	Halifax County (Unincorporated Areas).
	At the Halifax-Warren County boundary	+240	
Tributary 3	At the confluence with Little Fishing Creek Tributary 1	+216	Halifax County (Unincorporated Areas).
	Approximately 400 feet upstream of Highway 561	+238	
Tributary 4	At the confluence with Little Fishing Creek	+175	Halifax County (Unincorporated Areas).
	At the Halifax-Warren County boundary	+188	
Tributary 5	At the confluence with Little Fishing Creek Tributary 4	+175	Halifax County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence of Little Fishing Creek Tributary 4.	+192	
Tributary 6	At the confluence with Little Fishing Creek	+178	Halifax County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 1.9 miles upstream of the confluence with Little Fishing Creek.	+205	
Tributary 7	At the confluence with Little Fishing Creek	+181	Halifax County (Unincorporated Areas).
	Approximately 0.9 mile upstream of Spruills Bridge Road	+200	
Little Quankey Creek	Approximately 750 feet upstream of Interstate 95	+134	Halifax County (Unincorporated Areas).
	Approximately 600 feet upstream of NC–48	+176	
Little Quankey Creek	At the confluence with Quankey Creek	+87	Town of Halifax.
	Approximately 0.75 mile upstream of NC–903	+87	
Marsh Swamp	At the downstream side of Aurelian Springs Road	+129	Halifax County (Unincorporated Areas).
	Approximately 0.7 mile upstream of Aurelian Springs Road	+130	
Tributary 1	Approximately 1,500 feet upstream of the confluence with Marsh Swamp.	+85	Halifax County (Unincorporated Areas).
	Approximately 0.4 mile downstream of Justice Branch Road.	+99	
Tributary 2	Approximately 1,500 feet upstream of the confluence with Marsh Swamp.	+92	Halifax County (Unincorporated Areas).
	Approximately 1.1 miles upstream of the railroad	+96	
Nash Creek	Approximately 1.1 miles upstream of the confluence with Bells Branch and and Hales Branch.	+143	Halifax County (Unincorporated Areas).
	Approximately 2.5 miles upstream of the confluence with Bells Branch and Hales Branch.	+172	
Porter Creek	At the confluence with Little Fishing Creek	+166	Halifax County (Unincorporated Areas).
	At the Halifax-Warren County boundary	+227	
Quankey Creek	At the confluence with Roanoke River	+50	Halifax County (Unincorporated Areas), Town of Halifax.
	At the confluence with Little Quankey Creek	+87	
Reedy Creek	At the confluence with Little Fishing Creek	+180	Halifax County (Unincorporated Areas).
	At the Halifax-Warren County boundary	+180	
Roanoke River	At the Martin/Bertie/Halifax County boundary	+28	Halifax County (Unincorporated Areas), City of Roanoke Rapids, Town of Halifax, Town of Weldon.
	At the downstream side of Gaston Dam	+136	
Rocky Swamp	Approximately 800 feet downstream of Highway 481	+109	Halifax County (Unincorporated Areas).
	Approximately 1.0 mile upstream of Sledge Road	+194	
Webbs Mill Branch	At the confluence with Keehukee Swamp	+34	Halifax County (Unincorporated Areas).
	Approximately 0.3 mile upstream of the confluence with Webbs Mill Branch Tributary 2.	+50	
Tributary 1	At the confluence with Webbs Mill Branch	+38	Halifax County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Webbs Mill Branch.	+57	
Tributary 2	At the confluence with Webbs Mill Branch	+45	Halifax County (Unincorporated Areas), Town of Scotland Neck.
	Approximately 0.6 mile upstream of the confluence with Webbs Mill Branch.	+51	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Town of Enfield
Maps are available for inspection at the Enfield Town Hall, 105 Northwest Railroad Street, Enfield, North Carolina.

Town of Halifax
Maps are available for inspection at the Halifax Town Hall, 24 South King Street, Halifax, North Carolina.

Town of Hobgood
Maps are available for inspection at the Hobgood Town Hall, 207 West Commerce Street, Hobgood, North Carolina.

City of Roanoke Rapids

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected

Maps are available for inspection at the City of Roanoke Rapids Planning Department, 1040 Roanoke Avenue, Roanoke Rapids, North Carolina.

Town of Scotland Neck
Maps are available for inspection at the Scotland Neck Town Hall, 1310 Main Street, Scotland Neck, North Carolina.

Town of Weldon
Maps are available for inspection at the Weldon Town Hall, 109 Washington Avenue, Weldon, North Carolina.

Halifax County (Unincorporated Areas)
Maps are available for inspection at the Halifax County Public Works Building, 26 North King Street, Room 102, Halifax, North Carolina.

Rockingham County, North Carolina and Incorporated Areas
Docket Nos: FEMA–D–7660 and D–7626

Belews Creek	At the confluence with Dan River	+588	Rockingham County (Unincorporated Areas).
	At the confluence with Belews Lake	+737	
Belews Creek Tributary 1	At the confluence with Belews Creek	+588	Rockingham County (Unincorporated Areas).
	Approximately 1.0 mile upstream of the confluence with Belews Creek Tributary 2 of Tributary 1.	+636	
Tributary 1 of Tributary 1	At the confluence with Belews Creek Tributary 1	+588	Rockingham County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Belews Creek Tributary 1.	+662	
Tributary of Tributary 2	At the confluence with Belews Creek Tributary 2	+780	Rockingham County (Unincorporated Areas).
	Approximately 1,450 feet upstream of the confluence with Belews Creek Tributary 2.	+854	
Tributary of Tributary 3	At the Rockingham/Stokes County boundary	+737	Rockingham County (Unincorporated Areas).
	Approximately 1.5 miles upstream of the confluence with Belews Lake.	+785	
Tributary 2	At the confluence with Belews Lake	+737	Rockingham County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence of Belews Creek Tributary 1 of Tributary 2.	+822	
Tributary 2 of Tributary 1	At the confluence with Belews Creek Tributary 1	+588	Rockingham County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Belews Creek Tributary 1.	+645	
Belews Lake	The entire shoreline within the county	+737	Rockingham County (Unincorporated Areas).
Benaja Creek	At the confluence with Haw River.	+665	Rockingham County (Unincorporated Areas).
	At the Guilford/Rockingham County boundary	+688	
Big Beaver Island Creek	Approximately 0.5 mile downstream of Park Road	+663	Rockingham County (Unincorporated Areas).
	At the Rockingham/Stokes County boundary	+768	
Tributary 10	At the confluence with Big Beaver Island Creek	+738	Rockingham County (Unincorporated Areas).
	Approximately 700 feet upstream of the confluence with Big Beaver Island Creek.	+746	
Tributary 11	At the confluence with Big Beaver Island Creek	+760	Rockingham County (Unincorporated Areas).
	At the Rockingham/Stokes County boundary	+765	
Tributary 12	At the confluence with Big Beaver Island Creek	+764	Rockingham County (Unincorporated Areas).
	Approximately 950 feet upstream of the confluence with Big Beaver Island Creek.	+798	
Tributary 7	At the confluence with Big Beaver Island Creek	+688	Rockingham County (Unincorporated Areas).
	Approximately 850 feet upstream of the confluence with Big Beaver Island Creek.	+696	
Boaz Creek	At the confluence with Mayo River	+656	Rockingham County (Unincorporated Areas), Town of Stoneville.
	Approximately 0.5 mile upstream of the confluence with Boaz Creek Tributary.	+657	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Boaz Creek Tributary	At the confluence with Boaz Creek	+656	Rockingham County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Boaz Creek.	+667	
Brushy Creek	At the confluence with Jacobs Creek	+578	Rockingham County (Unincorporated Areas).
	Approximately 1,800 feet upstream of Sharp Road	+628	
Brushy Creek Tributary	At the confluence with Brushy Creek	+621	Rockingham County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Brushy Creek.	+660	
Buffalo Creek (into Dan River).	At the confluence with Dan River	+527	Rockingham County (Unincorporated Areas), City of Eden.
	Approximately 2.4 miles upstream of Wray Road	+920	
Tributary 2	At the confluence with Buffalo Creek (into Dan River)	+527	Rockingham County (Unincorporated Areas), City of Eden.
	Approximately 1,500 feet upstream of the confluence of Buffalo Creek (into Dan River).	+528	
Tributary 3	At the confluence with Buffalo Creek (into Dan River)	+528	Rockingham County (Unincorporated Areas), City of Eden.
	Approximately 100 feet upstream of SR 770	+572	
Tributary 4	At the confluence with Buffalo Creek (into Dan River)	+528	Rockingham County (Unincorporated Areas).
	Approximately 500 feet upstream of Roberts Road	+627	
Tributary 5	At the confluence with Buffalo Creek (into Dan River)	+538	Rockingham County (Unincorporated Areas).
	Approximately 1,700 feet upstream of the confluence with Buffalo Creek (into Dan River).	+545	
Buffalo Creek (into Mayo River).	At the confluence with Mayo River	+697	Rockingham County (Unincorporated Areas).
	At the Rockingham/Stokes County boundary	+753	
Buffalo Creek (into Mayo River) Tributary.	At the confluence with Buffalo Creek (into Mayo River)	+697	Rockingham County (Unincorporated Areas).
	Approximately 1,200 feet upstream of the confluence with Buffalo Creek (into Mayo River).	+710	
Candy Creek	At the confluence with Haw River	+663	Rockingham County (Unincorporated Areas).
	Approximately 200 feet downstream of Guilford/Rockingham County boundary.	+700	
Cascade Creek	At the confluence with Dan River	+499	Rockingham County (Unincorporated Areas).
	At the North Carolina/Virginia State Line	+505	
County Line Creek	At the Rockingham/Caswell County boundary	+602	Rockingham County (Unincorporated Areas).
	Approximately 150 feet upstream of the Rockingham/Caswell County boundary.	+604	
Covenant Branch	At the confluence with Dan River	+508	Rockingham County (Unincorporated Areas), City of Eden.
	Approximately 1.2 miles upstream of the confluence with Dan River.	+527	
Dan River	At the Rockingham/Caswell County boundary	+470	Rockingham County (Unincorporated Areas), City of Eden.
	Approximately 900 feet upstream of the Rockingham/Stokes County boundary.	+588	
Tributary 1 of Tributary 26.	At the confluence with Dan River Tributary 26	+548	Rockingham County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Belton Road	+597	
Tributary 10	At the confluence with Dan River	+533	Rockingham County (Unincorporated Areas).
	Approximately 1,000 feet upstream of the confluence of Dan River Tributary of Tributary 10.	+535	
Tributary 11	At the confluence with Dan River	+535	Rockingham County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 1,800 feet upstream of the confluence with Dan River.	+540	
Tributary 15	At the confluence with Dan River	+540	Rockingham County (Unincorporated Areas).
	Approximately 400 feet upstream of Eagle Falls Road	+550	
Tributary 16	At the confluence with Dan River	+541	Rockingham County (Unincorporated Areas).
	Approximately 1,200 feet upstream of the confluence with Dan River.	+555	
Tributary 17	At the confluence with Dan River	+541	Rockingham County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Dan River.	+562	
Tributary 19	At the confluence with Dan River	+542	Rockingham County (Unincorporated Areas).
	Approximately 1,300 feet upstream of the confluence with Dan River.	+554	
Tributary 2 of Tributary 26.	At the confluence with Dan River Tributary 26	+548	Rockingham County (Unincorporated Areas).
	Approximately 1,300 feet upstream of the confluence with Dan River Tributary 26.	+562	
Tributary 2 of Tributary 32.	At the confluence with Dan River Tributary 32	+576	Rockingham County (Unincorporated Areas).
	Approximately 1,000 feet upstream of the confluence with Dan River Tributary 32.	+582	
Tributary 20	At the confluence with Dan River	+543	Rockingham County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Dan River.	+563	
Tributary 21	At the confluence with Dan River	+547	Rockingham County (Unincorporated Areas).
	Approximately 1,750 feet upstream of the confluence with Dan River.	+591	
Tributary 23	At the confluence with Dan River	+547	Rockingham County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Dan River.	+571	
Tributary 26	At the confluence with Dan River	+548	Rockingham County (Unincorporated Areas).
	Approximately 600 feet upstream of Grogan Road	+572	
Tributary 29	At the confluence with Dan River	+549	Rockingham County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Dan River.	+560	
Tributary 32	At the confluence with Dan River	+551	Rockingham County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Dan River Tributary 2 of Tributary 32.	+590	
Tributary 33	At the confluence with Dan River	+554	Rockingham County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Dan River.	+589	
Tributary 34	At the confluence with Dan River	+555	Rockingham County (Unincorporated Areas).
	Approximately 1.1 miles upstream of the confluence with Dan River.	+627	
Tributary 35	At the confluence with Dan River	+558	Rockingham County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Dan River.	+639	
Tributary 36	At the confluence with Dan River	+558	Rockingham County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Dan River.	+562	
Tributary 37	At the confluence with Dan River	+559	Rockingham County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Dan River.	+598	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Tributary 38	At the confluence with Dan River	+562	Rockingham County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Dan River.	+566	
Tributary 39	At the confluence with Dan River	+567	Rockingham County (Unincorporated Areas).
	Approximately 1,300 feet upstream of the confluence with Dan River.	+598	
Tributary 44	At the confluence with Dan River	+584	Rockingham County (Unincorporated Areas), Town of Madison.
	Approximately 1,900 feet upstream of the confluence with Dan River.	+587	
Tributary 45	At the confluence with Dan River	+584	Rockingham County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Dan River.	+584	
Tributary 47	At the confluence with Dan River	+585	Rockingham County (Unincorporated Areas).
	Approximately 800 feet upstream of Dodge Loop Road	+591	
Tributary 48	At the confluence with Dan River	+585	Rockingham County (Unincorporated Areas).
	At the Rockingham/Stokes County boundary	+592	
Tributary 49	At the confluence with Dan River	+585	Rockingham County (Unincorporated Areas).
	Approximately 1,900 feet upstream of the confluence with Dan River.	+608	
Tributary 51	At the confluence with Dan River	+586	Rockingham County (Unincorporated Areas).
	At the Rockingham/Stokes County boundary	+586	
Tributary 6	At the confluence with Dan River	+529	Rockingham County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Dan River.	+544	
Tributary 7	At the confluence with Dan River	+530	Rockingham County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Dan River.	+562	
Tributary near Powells Store.	At the confluence with Dan River	+503	Rockingham County (Unincorporated Areas).
	Approximately 300 feet upstream of Chumney Loop	+536	
Tributary of Tributary 10	At the confluence with Dan River Tributary 10	+533	Rockingham County (Unincorporated Areas).
	Approximately 50 feet downstream of Riverside Circle	+545	
Dry Creek	At the confluence with Cascade Creek	+499	Rockingham County (Unincorporated Areas), City of Eden.
	Approximately 0.5 mile upstream of Main Street	+568	
Eurins Creek	At the confluence with Belews Creek	+588	Rockingham County (Unincorporated Areas).
	At the Rockingham/Stokes County boundary	+588	
Fall Creek	At the confluence with Mayo River	+715	Rockingham County (Unincorporated Areas).
	At North Carolina/Virginia State boundary	+748	
Fall Creek Tributary	At the confluence with Fall Creek	+745	Rockingham County (Unincorporated Areas).
	Approximately 1,000 feet upstream of the confluence with Fall Creek.	+748	
Giles Creek	At the confluence with Haw River	+650	Rockingham County (Unincorporated Areas).
	Approximately 950 feet upstream of State Route 87	+688	
Haw River	At the Guilford/Rockingham County boundary	+642	Rockingham County (Unincorporated Areas).
	At the Guilford/Rockingham County boundary	+731	
Tributary 16	At the confluence with Haw River	+644	Rockingham County (Unincorporated Areas).
	Approximately 1.3 miles upstream of Kernodle Road	+664	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Tributary 17	At the confluence with Haw River	+691	Rockingham County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence of Haw River.	+713	
Tributary 18	At the confluence with Haw River Tributary 17	+691	Rockingham County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Haw River Tributary 17.	+724	
Hickory Creek	At the confluence with Mayo River	+690	Rockingham County (Unincorporated Areas).
	Approximately 1,600 feet upstream of the confluence with Mayo River.	+690	
Hogans Creek (into Dan River east).	At the confluence of Lick Fork Creek	+470	Rockingham County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Bob White Drive	+741	
Tributary 10	At the confluence with Hogans Creek (into Dan River east)	+577	Rockingham County (Unincorporated Areas).
	Approximately 1.0 mile upstream of the confluence with Hogans Creek (into Dan River east).	+688	
Tributary 11	At the confluence with Hogans Creek (into Dan River east)	+579	Rockingham County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Hogans Creek (into Dan River east).	+647	
Tributary 12	At the confluence with Hogans Creek (into Dan River east)	+589	Rockingham County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Hogans Creek (into Dan River east).	+607	
Tributary 13	At the confluence with Hogans Creek (into Dan River east)	+595	Rockingham County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Hogans Creek (into Dan River east).	+610	
Tributary 4	At the confluence with Hogans Creek (into Dan River east)	+476	Rockingham County (Unincorporated Areas).
	At the Rockingham/Caswell County boundary	+476	
Tributary 4A	At the confluence with Hogans Creek (into Dan River east)	+504	Rockingham County (Unincorporated Areas).
	Approximately 0.9 mile upstream of the confluence with Hogans Creek (into Dan River east).	+521	
Tributary 5	At the confluence with Hogans Creek (into Dan River east)	+550	Rockingham County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Hogans Creek (into Dan River east).	+572	
Tributary 7	At the confluence with Hogans Creek (into Dan River east)	+558	Rockingham County (Unincorporated Areas).
	Approximately 0.9 mile upstream of the confluence with Hogans Creek (into Dan River east).	+585	
Tributary 8	At the confluence with Hogans Creek (into Dan River east)	+569	Rockingham County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Hogans Creek (into Dan River east).	+647	
Tributary 9	At the confluence with Hogans Creek (into Dan River east)	+574	Rockingham County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Hogans Creek (into Dan River east).	+659	
Hogans Creek (into Dan River west).	At the confluence with Dan River	+554	Rockingham County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Lemons Road	+799	
Tributary 1	At the confluence with Hogans Creek (into Dan River west)	+630	Rockingham County (Unincorporated Areas).
	Approximately 200 feet upstream of Bald Hill Loop Road	+647	
Tributary 2	At the confluence with Hogans Creek (into Dan River west)	+639	Rockingham County (Unincorporated Areas).
	Approximately 1,500 feet upstream of the confluence with Hogans Creek (into Dan River west).	+655	
Huffines Mill Creek	At the confluence with Little Jacobs Creek	+573	Rockingham County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Little Jacobs Creek.	+615	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Island Creek	Approximately 100 feet upstream of the confluence with Big Beaver Island Creek.	+656	Rockingham County (Unincorporated Areas).
	Approximately 0.9 mile upstream of Case School Road	+716	
Jacobs Creek	At the confluence with Dan River	+551	Rockingham County (Unincorporated Areas).
	Approximately 1.3 miles upstream of Carlton Road	+765	
Tributary 1	At the confluence with Jacobs Creek	+557	Rockingham County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Jacobs Creek.	+572	
Tributary 2	At the confluence with Jacobs Creek	+599	Rockingham County (Unincorporated Areas).
	Approximately 1,300 feet upstream of the confluence with Jacobs Creek.	+606	
Tributary 3	At the confluence with Jacobs Creek	+660	Rockingham County (Unincorporated Areas).
	Approximately 1,100 feet upstream of the confluence with Jacobs Creek.	+675	
Tributary 4	At the confluence with Jacobs Creek	+678	Rockingham County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Angoll Road	+700	
Jacobs Creek Tributary near Gold Hill.	At the confluence with Jacobs Creek	+681	Rockingham County (Unincorporated Areas).
	Approximately 1,200 feet upstream of the confluence with Jacobs Creek.	+699	
Jacobs Creek Tributary near SR 2190.	At the confluence with Jacobs Creek	+551	Rockingham County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Jacobs Creek.	+564	
Jones Branch (Jones Creek)	At the confluence with Matrimony Creek	+632	Rockingham County (Unincorporated Areas).
	Approximately 900 feet upstream of the confluence with Matrimony Creek.	+643	
Jones Creek	At the confluence with Hogans Creek (into Dan River east)	+500	Rockingham County (Unincorporated Areas), City of Reidsville.
	Approximately 1.0 mile upstream of the confluence with North Fork Jones Creek.	+640	
Tributary 8	At the confluence with Jones Creek	+586	Rockingham County (Unincorporated Areas).
	Approximately 700 feet upstream of the confluence with Jones Creek.	+592	
Tributary 1	At the confluence with Jones Creek	+506	Rockingham County (Unincorporated Areas).
	Approximately 1,300 feet upstream of the confluence with Jones Creek.	+575	
Tributary 2	At the confluence with Jones Creek	+511	Rockingham County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Jones Creek.	+580	
Tributary 3	At the confluence with Jones Creek	+515	Rockingham County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Jones Creek.	+615	
Tributary 4	At the confluence with Jones Creek	+522	Rockingham County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Jones Creek.	+640	
Tributary 5	At the confluence with Jones Creek	+526	Rockingham County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Jones Creek.	+581	
Tributary 6	At the confluence with Jones Creek	+528	Rockingham County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Jones Creek.	+644	
Tributary 9	At the confluence with Jones Creek	+592	Rockingham County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 0.5 mile upstream of the confluence with Jones Creek.	+605	
Lick Fork Creek	At the Caswell/Rockingham County boundary	+470	Rockingham County (Unincorporated Areas), City of Reidsville.
	Approximately 0.5 mile upstream of NC 14	+677	
Tributary 1	At the confluence with Lick Fork Creek	+470	Rockingham County (Unincorporated Areas).
	Approximately 800 feet upstream of the confluence with Lick Fork Creek.	+476	
Tributary 10	At the confluence with Lick Fork Creek	+538	Rockingham County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Lick Fork Creek.	+546	
Tributary 12	At the confluence with Lick Fork Creek	+567	Rockingham County (Unincorporated Areas).
	Approximately 620 feet upstream of the confluence with Lick Fork Creek.	+570	
Tributary 16	At the confluence with Lick Fork Creek	+586	Rockingham County (Unincorporated Areas).
	Approximately 1,000 feet upstream of the confluence with Lick Fork Creek.	+596	
Tributary 17	At the confluence with Lick Fork Creek	+594	Rockingham County (Unincorporated Areas).
	Approximately 700 feet upstream of the confluence with Lick Fork Creek.	+603	
Tributary 5	At the confluence with Lick Fork Creek	+484	Rockingham County (Unincorporated Areas).
	Approximately 1,300 feet upstream of the confluence with Lick Fork Creek.	+496	
Tributary 6	At the confluence with Lick Fork Creek	+490	Rockingham County (Unincorporated Areas).
	Approximately 1.2 miles upstream of the confluence with Lick Fork Creek.	+531	
Tributary 9	At the confluence with Lick Fork Creek	+534	Rockingham County (Unincorporated Areas).
	Approximately 1.0 mile upstream of Hidden Valley Drive	+617	
Little Beaver Island Creek	Approximately 0.9 mile downstream of Cardinal Road	+609	Rockingham County (Unincorporated Areas).
	At Rockingham/Stokes County boundary	+657	
Little Hogans Creek	At the confluence with Hogans Creek (into Dan River west)	+714	Rockingham County (Unincorporated Areas).
	Approximately 1.1 miles upstream of Stanley Road	+789	
Tributary 1	At the confluence with Little Hogans Creek	+737	Rockingham County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Little Hogans Creek.	+753	
Tributary 2	At the confluence with Little Hogans Creek	+742	Rockingham County (Unincorporated Areas).
	Approximately 1,950 feet upstream of the confluence with Little Hogans Creek.	+758	
Tributary 3	At the confluence with Little Hogans Creek	+750	Rockingham County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Little Hogans Creek.	+773	
Little Jacobs Creek	At the confluence with Jacobs Creek	+559	Rockingham County (Unincorporated Areas).
	Approximately 1.5 miles upstream of Webb Loop	+617	
Little Troublesome Creek	At the confluence with Haw River	+657	Rockingham County (Unincorporated Areas), City of Reidsville.
	Approximately 1,000 feet upstream of Freeway Drive	+790	
Massy Creek	At the confluence with Dan River	+546	Rockingham County (Unincorporated Areas).
	Approximately 1.4 miles upstream of Smothers Road	+570	
Massy Creek Tributary	At the confluence with Massy Creek	+546	Rockingham County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 0.6 mile upstream of the confluence with Massy Creek.	+605	
Matrimony Creek	At the confluence with Dan River	+525	Rockingham County (Unincorporated Areas), City of Eden.
	Approximately 400 feet upstream of the North Carolina/Virginia State boundary.	+812	
Matrimony Creek Tributary	At the confluence with Matrimony Creek	+664	Rockingham County (Unincorporated Areas).
	Approximately 700 feet upstream of the confluence with Matrimony Creek.	+668	
Mayo River	Approximately 0.8 mile upstream of NC 135	+593	Rockingham County (Unincorporated Areas), Town of Mayodan.
	At the North Carolina/Virginia State boundary	+730	
Tributary 11	At the confluence with Mayo River	+665	Rockingham County (Unincorporated Areas).
	Approximately 1,700 feet upstream of the confluence with Mayo River.	+668	
Tributary 12	At the confluence with Mayo River	+667	Rockingham County (Unincorporated Areas).
	Approximately 1,600 feet upstream of the confluence with Mayo River.	+667	
Tributary 14	At the confluence with Mayo River	+673	Rockingham County (Unincorporated Areas).
	Approximately 800 feet upstream of the confluence with Mayo River.	+673	
Tributary 16	At the confluence with Mayo River	+678	Rockingham County (Unincorporated Areas).
	Approximately 1,400 feet upstream of the confluence with Mayo River.	+684	
Tributary 17	At the confluence with Mayo River	+681	Rockingham County (Unincorporated Areas).
	Approximately 2,000 feet upstream of the confluence with Mayo River.	+705	
Tributary 18	At the confluence with Mayo River	+684	Rockingham County (Unincorporated Areas).
	Approximately 1,300 feet upstream of the confluence with Mayo River.	+691	
Tributary 19	At the confluence with Mayo River	+687	Rockingham County (Unincorporated Areas).
	Approximately 1,100 feet upstream of the confluence with Mayo River.	+687	
Tributary 20	At the confluence with Mayo River	+687	Rockingham County (Unincorporated Areas).
	Approximately 1,200 feet upstream of the confluence with Mayo River.	+706	
Tributary 21	At the confluence with Mayo River	+690	Rockingham County (Unincorporated Areas).
	Approximately 600 feet upstream of the confluence with Mayo River.	+702	
Tributary 22	At the confluence with Mayo River	+694	Rockingham County (Unincorporated Areas).
	Approximately 1,300 feet upstream of the confluence with Mayo River.	+696	
Tributary 23	At the confluence with Mayo River	+697	Rockingham County (Unincorporated Areas).
	Approximately 1,000 feet upstream of the confluence with Mayo River.	+721	
Tributary 24	At the confluence with Mayo River	+697	Rockingham County (Unincorporated Areas).
	Approximately 1,000 feet upstream of the confluence with Mayo River.	+706	
Tributary 25	At the confluence with Mayo River	+698	Rockingham County (Unincorporated Areas).
	Approximately 1,800 feet upstream of the confluence with Mayo River.	+718	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Tributary 26	At the confluence with Mayo River	+700	Rockingham County (Unincorporated Areas).
	At the confluence of Mayo River Tributary to Tributary 26	+700	
Tributary 27	At the confluence with Mayo River	+701	Rockingham County (Unincorporated Areas).
	Approximately 50 feet downstream of Anglin Mill Road	+731	
Tributary 3	At the confluence with Mayo River	+646	Rockingham County (Unincorporated Areas).
	Approximately 1.2 miles upstream of US 220	+684	
Tributary 5	At the confluence with Mayo River	+651	Rockingham County (Unincorporated Areas).
	Approximately 1.4 miles upstream of Janet Road	+679	
Tributary 6	At the confluence with Mayo River	+652	Rockingham County (Unincorporated Areas).
	Approximately 150 feet upstream of Chaney Loop	+663	
Tributary 7	At the confluence with Mayo River	+656	Rockingham County (Unincorporated Areas).
	Approximately 1,600 feet upstream of the confluence with Mayo River.	+676	
Tributary of Tributary 26	At the confluence with Mayo River Tributary 26	+700	Rockingham County (Unincorporated Areas).
	Approximately 450 feet upstream of old Anglin Loop	+722	
Tributary of Tributary 5 ..	At the confluence with Mayo River Tributary 5	+651	Rockingham County (Unincorporated Areas).
	Approximately 1,000 feet upstream of the confluence with Mayo River Tributary 5.	+672	
Means Creek	At the confluence with Mayo River	+676	Rockingham County (Unincorporated Areas).
	Approximately 1,200 feet upstream of the confluence with Mayo River.	+676	
North Fork Jones Creek	At the confluence with Jones Creek	+612	Rockingham County (Unincorporated Areas).
	Approximately 1,500 feet upstream of the confluence with Jones Creek.	+624	
Tributary of Tributary	Approximately 25 feet upstream of the confluence with North Fork Jones Creek.	+672	Rockingham County (Unincorporated Areas), City of Reidsville.
	Approximately 1,600 feet upstream of the confluence with North Fork Jones Creek.	+695	
Pawpaw Creek	At the confluence with Mayo River	+680	Rockingham County (Unincorporated Areas).
	Approximately 250 feet upstream of Smith Road	+680	
Pawpaw Creek Tributary	At the confluence with Pawpaw Creek	+680	Rockingham County (Unincorporated Areas).
	Approximately 1,200 feet upstream of the confluence with Pawpaw Creek.	+691	
Reed Creek	Approximately 0.5 mile upstream of the confluence of Reed Creek Tributary.	+586	Rockingham County (Unincorporated Areas).
	At the Rockingham/Stokes County boundary	+606	
Reed Creek Tributary	Approximately 600 feet upstream of the confluence with Reed Creek.	+586	Rockingham County (Unincorporated Areas), Town of Madison.
	Approximately 1.1 miles upstream of the confluence with Reed Creek.	+609	
Roach Creek	At the confluence with Dan River	+538	Rockingham County (Unincorporated Areas).
	Approximately 0.9 mile upstream of the confluence of Roach Creek Tributary.	+554	
Roach Creek Tributary	At the confluence with Roach Creek	+538	Rockingham County (Unincorporated Areas).
	Approximately 600 feet upstream of the confluence with Roach Creek.	+566	
Rock House Creek	At the confluence with Dan River	+538	Rockingham County (Unincorporated Areas), Town of Wentworth.
	Approximately 0.6 mile upstream of NC 65	+560	
Rock House Creek Tributary	At the confluence with Rock House Creek	+538	Town of Wentworth.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 0.6 mile upstream of the confluence with Rock House Creek.	+544	
Rockingham Lake Creek	At the confluence with Hogans Creek (into Dan River east)	+519	Rockingham County (Unincorporated Areas).
	Approximately 150 feet downstream of Anglers Drive	+533	
Rose Creek	At the confluence with Haw River	+657	Rockingham County (Unincorporated Areas).
	At the Guilford/Rockingham County boundary	+679	
Smith River	At the confluence with Dan River	+522	Rockingham County (Unincorporated Areas), City of Eden.
	At North Carolina/Virginia State boundary	+571	
Tributary 1	Approximately 280 feet upstream of the confluence with Smith River.	+535	City of Eden.
	Approximately 1,980 feet upstream of the confluence of Smith River Tributary 2 of Tributary 1.	+647	
Tributary 1 of Tributary 1	At the confluence with Smith River Tributary 1	+556	City of Eden.
	Approximately 1,630 feet upstream of the confluence with Smith River Tributary 1.	+595	
Tributary 2 of Tributary 1	At the confluence with Smith River Tributary 1	+601	City of Eden.
	Approximately 1,600 feet upstream of John Street	+656	
South Mayo River	At the confluence with Mayo River	+726	Rockingham County (Unincorporated Areas).
	At North Carolina/Virginia State boundary	+726	
Town Creek	At the confluence with Dan River	+509	Rockingham County (Unincorporated Areas).
	Approximately 1,300 feet upstream of NC 14	+584	
Tributary 1	At the confluence with Town Creek	+509	Rockingham County (Unincorporated Areas).
	Approximately 1.1 miles upstream of the confluence with Town Creek.	+532	
Tributary 3	At the confluence with Town Creek	+509	Rockingham County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Town Creek.	+522	
Tributary 4	At the confluence with Town Creek	+524	Rockingham County (Unincorporated Areas).
	Approximately 1.3 miles upstream of the confluence with Town Creek.	+564	
Tributary A to Little Troublesome Creek.	Approximately 40 feet downstream of Forsyth Street	+753	City of Reidsville.
	Approximately 700 feet upstream of Forsyth Street	+760	
Tributary B to Little Troublesome Creek.	Approximately 80 feet upstream of Cypress Drive	+733	City of Reidsville.
	Approximately 0.8 mile upstream of Cypress Drive	+787	
Tributary C to Little Troublesome Creek.	Approximately 475 feet downstream of Summit Avenue	+755	City of Reidsville.
	Approximately 25 feet downstream of Piedmont Street	+807	
Troublesome Creek	At the confluence with Haw River	+661	Rockingham County (Unincorporated Areas), City of Reidsville.
	At Monroeton Road	+707	
Tributary 1	At the confluence with Lake Reidsville and Troublesome Creek.	+695	Rockingham County (Unincorporated Areas), City of Reidsville.
	Approximately 1.7 miles upstream of the confluence with Troublesome Creek.	+762	
Tributary 2	At the confluence with Lake Reidsville and Troublesome Creek.	+695	Rockingham County (Unincorporated Areas), City of Reidsville.
	Approximately 1.0 mile upstream of McCoy Road	+794	
Tributary 3	At the confluence with Lake Reidsville and Troublesome Creek.	+699	Rockingham County (Unincorporated Areas), City of Reidsville.
	Approximately 1.8 miles upstream of Iron Works Road	+741	
Tributary 3A	At the confluence with Troublesome Creek Tributary 3	+703	Rockingham County (Unincorporated Areas), City of Reidsville.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 2.1 miles upstream of Boyds Road	+758	
Tributary 4	At the confluence with Troublesome Creek	+743	Rockingham County (Unincorporated Areas).
	Approximately 0.9 mile upstream of Brown Road	+776	
Tributary 5	At the confluence with Troublesome Creek	+766	Rockingham County (Unincorporated Areas).
	Approximately 2,400 feet upstream of Hudson Road	+813	
Whetstone Creek	At the confluence with Dan River	+531	Rockingham County (Unincorporated Areas).
	Approximately 1,600 feet upstream of the confluence with Whetstone Creek Tributary.	+534	
Whetstone Creek Tributary	At the confluence with Whetstone Creek	+531	Rockingham County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Whetstone Creek.	+561	
White Oak Creek	At the North Carolina/Virginia State boundary	+490	Rockingham County (Unincorporated Areas).
	Approximately 1.0 mile upstream of Berry Hill Bridge Road	+536	
Williamson Creek	At the confluence with Dan River	+470	Rockingham County (Unincorporated Areas).
	Approximately 600 feet upstream of the confluence of Williamson Creek Tributary 11.	+560	
Tributary 1	At the confluence with Williamson Creek	+470	Rockingham County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Williamson Creek.	+483	
Tributary 1 of Tributary 1	At the confluence with Williamson Creek Tributary 1	+470	Rockingham County (Unincorporated Areas).
	Approximately 1,100 feet upstream of the confluence with Williamson Creek Tributary 1.	+496	
Tributary 10	At the confluence with Williamson Creek	+543	Rockingham County (Unincorporated Areas).
	Approximately 900 feet upstream of the confluence with Williamson Creek.	+549	
Tributary 11	At the confluence with Williamson Creek	+558	Rockingham County (Unincorporated Areas).
	Approximately 500 feet upstream of the confluence with Williamson Creek.	+569	
Tributary 2	At the confluence with Williamson Creek	+470	Rockingham County (Unincorporated Areas).
	Approximately 1,600 feet upstream of the confluence with Williamson Creek.	+495	
Tributary 2 of Tributary 1	At the confluence with Williamson Creek Tributary 1	+475	Rockingham County (Unincorporated Areas).
	Approximately 700 feet upstream of the confluence with Williamson Creek Tributary 1.	+489	
Tributary 3	At the confluence with Williamson Creek	+480	Rockingham County (Unincorporated Areas).
	Approximately 800 feet upstream of the confluence with Williamson Creek.	+520	
Tributary 4	At the confluence with Williamson Creek	+491	Rockingham County (Unincorporated Areas).
	Approximately 750 feet upstream of the confluence with Williamson Creek.	+506	
Tributary 5	At the confluence with Williamson Creek	+505	Rockingham County (Unincorporated Areas).
	Approximately 500 feet upstream of the confluence with Williamson Creek.	+511	
Tributary 6	At the confluence with Williamson Creek	+511	Rockingham County (Unincorporated Areas).
	Approximately 700 feet upstream of the confluence with Williamson Creek.	+522	
Tributary 7	At the confluence with Williamson Creek	+521	Rockingham County (Unincorporated Areas).
	Approximately 550 feet upstream of the confluence with Williamson Creek.	+529	
Tributary 8	At the confluence with Williamson Creek	+537	Rockingham County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 500 feet upstream of the confluence with Williamson Creek.	+547	
Tributary 9	At the confluence with Williamson Creek	+540	Rockingham County (Unincorporated Areas).
	Approximately 1,000 feet upstream of the confluence with Williamson Creek.	+548	
Wolf Island Creek	Approximately 150 feet downstream of the Rockingham/Caswell County boundary.	+472	Rockingham County (Unincorporated Areas), City of Reidsville.
	Approximately 1,600 feet downstream of NC 14	+627	
Wolf Island Creek	Approximately 1,600 feet downstream of NC 14	+628	Rockingham County (Unincorporated Areas).
	At the upstream side of NC 14	+635	
Tributary 1	At the upstream side of Wilson Road	+648	Rockingham County (Unincorporated Areas), City of Reidsville.
	Approximately 0.5 mile upstream of Wilson Road	+653	
Tributary 2	Approximately 800 feet upstream of Freeway Drive	+701	City of Reidsville.
	Approximately 350 feet upstream of Franklin Street	+751	
Tributary near SR 1767	At the confluence with Wolf Island Creek	+509	Rockingham County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Wolf Island Creek.	+518	
Tributary near SR 1902	At the confluence with Wolf Island Creek	+503	Rockingham County (Unincorporated Areas).
	Approximately 1.2 miles upstream of the confluence with Wolf Island Creek.	+542	
Tributary of Tributary 2	Approximately 500 feet upstream of the confluence with Wolf Island Creek Tributary 2.	+674	Rockingham County (Unincorporated Areas), City of Reidsville.
	Approximately 900 feet upstream of Harrison Street	+776	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Eden

Maps are available for inspection at Eden City Hall, Planning and Inspections Department, 308 East Stadium Drive, Eden, North Carolina.

City of Reidsville

Maps are available for inspection at Reidsville City Hall, Department of Community Development, 2nd Floor, 230 West Morehead Street, Reidsville, North Carolina.

Town of Madison

Maps are available for inspection at Madison Town Hall, 120 North Market Street, Madison, North Carolina.

Town of Mayodan

Maps are available for inspection at Mayodan Town Hall, 210 West Main Street, Mayodan, North Carolina.

Town of Stoneville

Maps are available for inspection at Stoneville Town Hall, 101 Smith Street, Stoneville, North Carolina.

Town of Wentworth

Maps are available for inspection at Wentworth Town Hall, 292 NC Highway 65, Wentworth, North Carolina.

Rockingham County (Unincorporated Areas)

Maps are available for inspection at Rockingham County Planning and Inspections Department, Governmental Complex, 361 Highway 65, Wentworth, North Carolina.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: January 23, 2007.

David I. Maurstad,

Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–1769 Filed 2–2–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 030221039–7022–40; I.D. 012607B]

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan

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

ACTION: Temporary rule.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 2,201 nm^2 (7,549 km^2), east of Portsmouth, NH for 15 days. The purpose of this action is to provide protection to an aggregation of northern right whales (right whales).

DATES: Effective beginning at 0001 hours February 7, 2007, through 2400 hours February 21, 2007.

ADDRESSES: Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–281–9300 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.noaa.gov/whaletrp/*.

Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) due to incidental interaction with commercial fishing activities. In addition, the measures identified in the ALWTRP would provide conservation benefits to a fourth species (minke), which are neither listed as endangered nor threatened under the Endangered Species Act (ESA). The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° N. lat. to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15–day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15–day period and asking fishermen not to set any additional gear in the DAM zone during the 15–day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm^2 (139 km^2)) such that right whale density is equal to or greater than 0.04 right whales per nm^2 (1.85 km^2). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On January 24, 2007, an aerial survey reported a sighting of seventeen right whales in the proximity 42° 57′ N. lat. and 70° 04′ W. long. This position lies east of Portsmouth, NH. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. As a result of this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during the 15–day restricted period unless it is modified in the manner described in this temporary rule.

The DAM Zone is bound by the following coordinates:

43° 19′ N., 70° 38′ W. (NW Corner)
43° 19′ N., 69° 35′ W.
42° 31′ N., 69° 35′ W.
42° 31′ N., 70° 38′ W.
42° 37′ N., 70° 38′ W. and follow the coastline north to
42° 39′ N., 70° 38′ W.
43° 09′ N., 70° 38′ W. and follow the coastline north to
43° 19′ N., 70° 38′ W. (NW Corner)

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the

more restrictive requirements will apply in the DAM zone. Special note for gillnet fisherman: A portion of this DAM zone overlaps the year-round Western Gulf of Maine Closure Area for Northeast Multispecies found at 50 CFR 648.81(e). Due to this closure, sink gillnet gear is prohibited from this portion of the DAM zone.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within the portion of the Northern Inshore State Lobster Waters, Northern Nearshore Lobster Waters and Stellwagen Bank/Jeffreys Ledge that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per trawl; and

4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per trawl; and

4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portions of the Other Northeast Gillnet Waters Area and Stellwagen Bank/Jeffreys Ledge Restricted Area that overlap with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per string;

4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining two weak links must be placed in the center of each of the up and down lines at the panel ends;

5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and

6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours February 7, 2007, through 2400 hours February 21, 2007, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon issuance of the rule by the AA.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

Environmental Assessments for the DAM program were prepared on December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30–day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means upon issuance of the rule by the AA, thereby providing approximately 3 additional days of notice while the Office of the **Federal Register** processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S.

Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: January 30, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 07–488 Filed 1–31–07; 2:18 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 23
Monday, February 5, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 354

RIN 3064-AD15

Industrial Bank Subsidiaries of Financial Companies

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is publishing for comment proposed rules that would impose certain conditions and requirements on each deposit insurance application approval and non-objection to a change in control notice that would result in an insured industrial loan company or industrial bank (collectively ''industrial bank'' or ''ILC'') [1] becoming, after the effective date of any final rules, a subsidiary [2] of a company that is engaged solely in financial activities and that is not subject to consolidated bank supervision by the Federal Reserve Board or the Office of Thrift Supervision (''Federal Consolidated Bank Supervision''). The proposed rules would also require that before any industrial bank may become a subsidiary of a company that is engaged solely in financial activities and that is not subject to Federal Consolidated Bank Supervision (a ''Non-FCBS Financial Company''), such company and the industrial bank must enter into one or more written agreements with the FDIC. Simultaneously with the proposed rules, the FDIC is publishing a Notice to extend for one year its moratorium for applications for deposit insurance and change in control notices for industrial banks that will become subsidiaries of companies engaged in non-financial activities (''commercial companies'').[3] By this action, however, the FDIC is not expressing any conclusion about the propriety of ownership or control of industrial banks by commercial companies. The FDIC has determined that it is appropriate to provide additional time for review of such ownership and the related issues by the FDIC and by Congress.

DATES: Written comments must be received by the FDIC no later than May 7, 2007.

ADDRESSES: You may submit comments, identified by RIN number 3064-AD15, by any of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*; submissions must include the agency's name (''FDIC'') and the RIN (3064-AD15) for this rulemaking,
- *Agency Web site*: *http://www.FDIC.gov/regulations/laws/federal/propose.html*,
- *Mail*: Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery/Courier*: The guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m., or
- *E-mail*: *comments@FDIC.gov*. Include RIN number 3064-AD15 in the subject line of the message.

Public Inspection

- Comments may be inspected and photocopied in the FDIC Public Information Center, Room E–1002, 3501 North Fairfax Drive, Arlington, VA, between 9 a.m. and 4:30 p.m. on business days.
- Comments received will be posted without change to *http://www.FDIC.gov/regulations/laws/federal/propose.html* and will include any personal information provided, except that the FDIC may redact any inappropriate matter.

FOR FURTHER INFORMATION CONTACT: Robert C. Fick, Counsel (202) 898–8962, A. Ann Johnson, Counsel (202) 898–3573 or Thomas P. Bolt, Counsel, (202) 898–6750, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Background

I. History Of Industrial Banks

Industrial banks were first chartered in the early 1900's as small loan companies for industrial workers. Over time the chartering states have expanded the powers of their industrial banks to the extent that some industrial banks now have generally the same powers as state commercial banks.[4]

Industrial banks are state-chartered banks,[5] and all of the existing FDIC-insured industrial banks are ''state nonmember banks'' under the Federal Deposit Insurance Act (FDI Act). As a result, their primary Federal banking supervisor is the FDIC. The FDIC generally exercises the same supervisory and regulatory powers over industrial banks that it does over other state non-member banks.

While industrial banks are ''banks'' under the FDI Act,[6] they generally are not ''banks'' under the Bank Holding Company Act (BHCA).[7] One result of this difference in treatment is that a company that owns an FDIC-insured industrial bank could engage in commercial activities and/or may not be subject to Federal Consolidated Bank Supervision. By contrast, bank holding companies or savings and loan holding companies are generally prohibited from engaging in commercial activities. Another result is that some of the companies that own insured industrial banks are not subject to Federal Consolidated Bank Supervision. The FDIC has noted a recent increase in deposit insurance applications for, and change in control notices with respect to, industrial banks that would be affiliated with commercial concerns or other companies that would not have a

[1] The term ''industrial bank'' or ''ILC'' means any insured State Bank that is an industrial bank, industrial loan company or other similar institution that is excluded from the definition of ''bank'' in the Bank Holding Company Act pursuant to 12 U.S.C. 1841(c)(2)(H).

[2] The term ''subsidiary'' means any company that is controlled, directly or indirectly, by another company.

[3] A financial activity is generally any activity that is permissible for a financial holding company or a savings and loan holding company. See the proposed section 354.2 for a detailed definition of the term. Any other activity is ''non-financial.''

[4] Most of the industrial banks operating today do not offer demand deposits. Even in those states that have authorized industrial banks to offer demand deposits, industrial banks generally do not offer them. Offering demand deposits could, under certain circumstances, make any company that controls the industrial bank subject to supervision under the Bank Holding Company Act. See generally, The FDIC's Supervision of Industrial Loan Companies: A Historical Perspective, Supervisory Insights (Summer 2004).

[5] 12 U.S.C. 1813(a)(2).

[6] 12 U.S.C. 1813(a)(2).

[7] See 12 U.S.C. 1841(c)(2)(H).

Federal Consolidated Bank Supervisor.[8] Some members of Congress, the Government Accountability Office, the FDIC's Office of Inspector General, and members of the public have expressed concerns regarding the lack of Federal Consolidated Bank Supervision, the uncertainty regarding the parent company's willingness or ability to serve as a source of strength to the subsidiary industrial bank, the potential risks from mixing banking and commerce, the potential for conflicts of interest, and the potential for an ''uneven playing field.''

In 1987 Congress enacted the Competitive Equality Banking Act (CEBA)[9] which exempted companies that control certain industrial banks from the BHCA. The industrial bank industry has grown and evolved significantly since CEBA was enacted. As of year-end 1987, 105 industrial banks reported aggregate total assets of $4.2 billion and aggregate total deposits of $2.9 billion. The reported total assets for these industrial banks ranged from $1.0 million to $411.9 million, with the average industrial bank reporting $40.0 million in total assets and $27.3 million in total deposits.

Between 1987 and 2006 total assets held by industrial banks grew from $4.2 billion to $177 billion. In 1996 one large financial services firm moved its entire credit card operation into its subsidiary industrial bank, increasing the assets in the industry to $22.6 billion. Within the period from 1999 to 2000 another large financial services firm moved approximately $40 billion from uninsured funds into insured deposits in its subsidiary industrial bank.[10]

As of year-end 1999, the FDIC insured 55 industrial banks with aggregate total assets of $43.6 billion and aggregate total deposits of $22.5 billion. The reported total assets for these industrial banks ranged from $2.4 million to $15.6 billion, with 10 institutions reporting total assets of more than $1 billion. The four largest institutions reported total assets of $15.6 billion, $4.4 billion, $3.8 billion, and $3.0 billion. Six other institutions reported total assets of $1.1 billion to $2.5 billion. The remaining portfolio of industrial banks, on average, reported total assets of $152.5 million.

Since January 1, 2000, 24 industrial banks became insured.[11] As of January 30, 2007, there were fifty-eight insured industrial banks[12] with aggregate total assets of approximately $177 billion. Six industrial banks reported total assets of $10 billion or more; eleven other industrial banks reported total assets of $1 billion or more. The remaining forty-one institutions, on average, reported total assets of approximately $231.8 million. Forty-five of those fifty-eight operated in Utah and California.[13] Of the fifty-eight existing industrial banks, forty-three were either owned by one or more individuals or controlled by a parent company whose business is financial in nature. As of January 30, 2007, thirty-one of the fifty-eight existing industrial banks were owned by financial companies that were not subject to Federal Consolidated Bank Supervision. Fifteen industrial banks were subsidiaries of holding companies that are commercial in nature. Eight of the fifty-eight industrial banks (representing approximately sixty-nine percent of industrial bank industry assets) were owned by companies that were engaged solely in financial activities and were subject to consolidated supervision by the FRB or the OTS. Four of the fifty-eight industrial banks were owned by individuals.

Recent Developments

While some of the industrial banks insured after CEBA are subject to Federal Consolidated Bank Supervision, many of the recent applications and notices are from companies that would have no Federal Consolidated Bank Supervisor. Currently, eight applications for deposit insurance for industrial banks are pending before the FDIC. In 2006, the FDIC also received seven notices of change in bank control to acquire an industrial bank.[14] None of the potential parent companies of the current industrial bank applicants or the potential acquirers of industrial banks would be subject to Federal Consolidated Bank Supervision.

In 2005, the Government Accountability Office (GAO) expressed its concern that industrial banks owned by commercial companies or other entities without a Federal Consolidated Bank Supervisor created an uneven playing field when compared to banks and thrifts owned by holding companies subject to Federal Consolidated Bank Supervision.[15] The GAO questioned whether the FDIC's examination, regulation, and supervision authorities were sufficient to protect such industrial banks. The concerns regarding the lack of consolidated supervision and the possible limitations of the FDIC's authority echoed those previously expressed by the FDIC's Office of Inspector General in a 2004 report.[16]

Some industrial banks continue to be small, community-focused institutions. However, the FDIC has noted a recent increase in the number of applications for deposit insurance and notices of change in control for industrial banks that would be affiliated with commercial companies or other entities that would not be subject to Federal Consolidated Bank Supervision. These companies are often large organizations that tend to have complex business plans, and their subsidiary industrial banks tend to provide specialty lending programs or financial services or other support to the company.

Whatever their purpose or structure, the industrial bank charter has generated a significant amount of public interest in recent years as various entities have explored the feasibility and advantages associated with including an industrial bank as part of their operations.

In 2006, the FDIC received more than 13,800 comment letters regarding the proposed Wal-Mart Bank's 2005 deposit insurance application.[17] Most of these comments expressed opposition to granting deposit insurance to this particular applicant; however, some commenters raised more universal concerns about industrial banks. Over 640 of the more general comments were specifically focused on the risk posed to the Deposit Insurance Fund by industrial banks owned by holding companies without a Federal Consolidated Bank Supervisor. Similar

[8] The term ''Federal Consolidated Bank Supervisor'' means either the Federal Reserve Board or the Office of Thrift Supervision.

[9] Public Law 100–86, 101 Stat. 552 (codified as amended in various sections of title 12 of the U.S. Code).

[10] Since 2000 at least three additional financial services firms that control industrial banks have offered their clients the option of holding their cash funds in insured deposits in the firms' industrial banks.

[11] During 2000, four new industrial banks were insured; two during each of 2001 and 2002; five during 2003; six during 2004; four during 2005; and one in 2006.

[12] The difference between 79 (55 industrial banks at the end of 1999 plus 24 new ones since then) and 58 results from various mergers, conversions, voluntary liquidations and one failure. Aggregate asset figures are as of September 30, 2006, the most recent reported data.

[13] Industrial banks also operate in Colorado, Hawaii, Indiana, Minnesota and Nevada.

[14] Five of the change in control notices have been withdrawn, and one was approved.

[15] U.S. Gov't Accountability Office, GAO–05–621, Industrial Loan Corporations: Recent Asset Growth and Commercial Interest Highlight Differences in Regulatory Authority 79–80 (2005) (hereinafter ''GAO Report 05–621'').

[16] See Federal Deposit Insurance Corporation Office of Inspector General, Report No. 2004–048, The Division of Supervision and Consumer Protection's Approach for Supervising Limited-Charter Depository Institutions (2004) (hereinafter ''OIG Report'').

[17] See the FDIC's web site at *http://www.fdic.gov/regulations/laws/walmart/*.

sentiments were expressed by witnesses during three days of public hearings held by the FDIC regarding the Wal-Mart application. In addition, The Home Depot also filed a change in control notice in connection with its proposed acquisition of EnerBank, a Utah industrial bank. In response to the request for public comment on the change in control notice, the FDIC received approximately 830 comment letters; almost all of them expressed opposition to the proposed acquisition.

Congress also has had a continuing interest in the industrial bank charter. Most recently, on July 12, 2006, the House Committee on Financial Services (Committee) held a hearing regarding industrial banks. At this hearing, General Counsels from the FDIC and the Federal Reserve Board (''FRB'') testified before the Committee, discussing the history, characteristics, current industry profile, and supervision of industrial banks.[18] The FDIC's testimony noted that today's industrial banks are owned by a diverse group of financial and commercial entities. Among such entities are industrial banks that serve a particular lending, funding, or processing function within a larger organizational structure, and those that directly support one or more affiliate's commercial activities. The FDIC further noted that industrial banks may share employees and obtain critical support from affiliated companies. The business plans for these industrial banks differ substantially from the consumer lending focus of the original industrial banks. In addition to the hearings, three bills were introduced in the House in the last two years for the purpose of making either the FDIC or another banking agency the Federal consolidated bank supervisor for industrial bank holding companies and prohibiting ownership or control of an industrial bank by a commercial firm.[19]

[18] Industrial Loan Companies: A Review of Charter, Ownership, and Supervision Issues: Hearing Before the H. Comm. on Financial Services, 109th Cong. (2006). The Committee also heard testimony from G. Edward Leary, Commissioner for the Utah Department of Financial Institutions; Rick Hilman, Director of Financial Markets and Community Investment, U.S. Government Accountability Office; George Sutton, Former Commissioner for the Utah Department of Financial Institutions; Terry Jorde, Chairman, President, and CEO of CountryBank USA, Chairman of ICBA; John L. Douglas, Partner, Alston & Bird; Arthur C. Johnson, Chairman and CEO of United Bank of Michigan; Prof. Lawrence J. White, Professor of Economics, Stern School of Business of New York University; Michael J. Wilson, Director, Legislative and Political Action Department, United Food and Commercial International Union. Also, several organizations submitted record statements.

[19] 19 See H.R. 698, 1st Sess. 110th Cong. (2007); H.R. 5746, 109th Cong., 2d Sess. (2006); H.R. 3882, 109th Cong., 1st Sess. (2005).

To evaluate the concerns and issues raised with respect to industrial banks, on July 28, 2006, the FDIC imposed a six-month moratorium on FDIC action with respect to certain industrial bank applications or notices.[20] The FDIC declared the moratorium to enable it to further evaluate (i) industry developments, (ii) the various issues, facts, and arguments raised with respect to the industrial bank industry, (iii) whether there are emerging safety and soundness issues or policy issues involving industrial banks or other risks to the insurance fund, and (iv) whether statutory, regulatory, or policy changes should be made in the FDIC's oversight of industrial banks in order to protect the Deposit Insurance Fund or important Congressional objectives.[21]

II. Request for Comments

On August 23, 2006, the FDIC published in the **Federal Register** a Notice with a Request for Public Comment on a wide range of issues concerning industrial banks.[22] The Notice presented 12 specific questions for consideration by commenters. The issues presented by the questions included the current risk profile of the industrial bank industry; safety and soundness issues uniquely associated with ownership of such institutions; the FDIC's practice with respect to evaluating and making determinations on industrial bank applications and notices; whether a distinction should be made when the industrial bank is owned by an entity that is commercial in nature; and the adequacy of the FDIC's supervisory approach with respect to industrial banks.

The FDIC received over 12,600 comment letters in response to the Notice during the comment period.[23] Approximately 12,485 comments were generated by what appears to be organized campaigns either supporting or opposing the proposed industrial bank to be owned by Wal-Mart or the proposed acquisition of Enerbank, also an industrial bank, by The Home Depot. The remaining comment letters were sent by individuals, law firms, community banks, financial services trade associations, existing and proposed industrial banks or their parent companies, the Conference of State Bank Supervisors, and two members of Congress. Of the total comments received, seventy-one commenters addressed specific substantive issues concerning the industrial bank industry and its regulation.

[20] See Moratorium on Certain Industrial Loan Company Applications and Notices, 71 FR 43482 (August 1, 2006).

[21] Id. at 43483.

[22] See Industrial Loan Companies and Industrial Banks, 71 FR 49456 (August 23, 2006).

[23] See *http://www.fdic.gov/regulations/laws/federal/2006/06comilc.html.*

Summary of the Substantive Responses by Topic

i. The Current Risk Profile of the Industrial Bank Industry

Some commenters stated that the significant growth in total industrial bank industry assets and deposits has not adversely affected the risk profile of the industry and, therefore, industrial banks, regardless of ownership, present no unique safety and soundness concerns. These commenters argued that the industrial bank industry presents significantly less risk, and is therefore superior in comparison to, the industry profiles for other insured institutions. These commenters also contended that a supervisory approach that focuses on the bank itself, as opposed to consolidated supervision, is more effective for their supervision because current restrictions on affiliate transactions adequately address conflicts of interest and other potential forms of risk. Some of these commenters questioned the propriety of measuring risk on an industry-wide basis, and encouraged the FDIC to assess risk on an institution-by-institution basis. In addition, these commenters largely discouraged assessing risk differently for industrial banks based on considerations such as whether an institution's owner is subject to Federal Consolidated Bank Supervision, arguing that what mattered was the individual institution and its particular characteristics. In the view of these commenters, these distinctions are arbitrary because there is no evidence showing that any particular form of ownership or supervision is safer in terms of risk than another.

Many commenters opposed any mixing of banking and commerce. Other commenters, however, also noted the recent growth in total industry assets and deposits and were concerned about the risks that may emerge from such growth, including for example, dilution of the Federal deposit insurance system, i.e., the growth of deposits at industrial banks could result in an increase of bank insurance premiums in order to bring the deposit insurance funds back to the designated reserve ratio. These commenters also noted an increase in the number of industrial banks owned by entities that are commercial in nature. They are concerned that these industrial banks present unique risks compared to other insured institutions

primarily because they are not subject to Federal Consolidated Bank Supervision and, with respect to publicly traded parent companies of industrial banks, are primarily concerned with maximizing shareholder profit. Others also asserted that commercial ownership requires consolidated supervision because the FDIC lacks legal authority, staff or expertise to adequately supervise industrial banks owned by large commercial companies. Additionally, one commenter stated that absence of consolidated supervision for companies not subject to the Bank Holding Company Act meant that both commercial ownership and financial ownership posed increased risks, while some asserted that commercial ownership presents greater risks than financial ownership and others (discussed above) asserted that only commercial ownership poses risks.

As to determining how to distinguish between a company that is financial or commercial in nature, one commenter suggested that a company should be considered ''financial'' if 80 percent of its revenues came from financial activities, while another commenter proposed that 85 percent should be the determinative number.

ii. FDIC's Current Practice When Making Determinations on Industrial Bank Applications and Notices

Some commenters encouraged the FDIC to continue evaluating all industrial bank applications on a case-by-case basis. These commenters believe that the statutory criteria for evaluating industrial bank applications and notices are thorough and comprehensive, and asserted that any departure from those criteria might be held by a court to be arbitrary and capricious agency action. These commenters also urged the FDIC to continue conditioning Federal deposit insurance on a case-by-case basis, and they objected to any proposals to impose general restrictions on industrial banks that are not subject to consolidated supervision, arguing that general restrictions predicated solely on the nature or form of industrial bank ownership are arbitrary and capricious.

Other commenters proposed that the FDIC augment its current practice with respect to evaluating industrial bank applications and notices, and presented additional factors for the FDIC to consider. They argued that the FDI Act authorizes the FDIC to consider any factor reasonably related to safety and soundness, the risk presented to the Deposit Insurance Fund, and/or the convenience and needs of the community; therefore the FDIC may evaluate a parent company's motivation or purpose for chartering or acquiring an industrial bank, as well as the parent company's reputation, market reach, and corporate strategy with respect to competition. However, some of these commenters also opined that FDIC action on any application or notice which is based on considerations that are not specifically authorized under the FDI Act would be arbitrary and capricious.

Several commenters supported extending the FDIC's moratorium on deposit insurance applications for new industrial banks and acquisitions of existing industrial banks until Congress has the time to enact legislation prohibiting affiliations between industrial banks and commercial or other entities that are not subject to Federal Consolidated Bank Supervision. Others believed that congressional action is not required and that the FDIC has the authority to deny any industrial bank application or notice if the industrial bank would be controlled by an entity not subject to Federal Consolidated Bank Supervision. Several commenters also asserted that an affiliation between an industrial bank and an entity not subject to Federal Consolidated Bank Supervision—primarily, a commercial entity—presented several safety and soundness concerns, and that industrial banks which serve as a support mechanism for an affiliated entity do not serve the convenience and needs of the community. Another commenter encouraged the FDIC to discontinue its practice of conditioning Federal deposit insurance on a case-by-case basis, arguing that conditions lack a binding effect because they may be removed by the FDIC at a later time. Some commenters suggested restricting affiliations between industrial banks and commercial or other entities without a Federal Consolidated Bank Supervisor by regulation.

iii. Comments Regarding Commercial Ownership of Industrial Banks

Some commenters discounted the concerns commonly expressed concerning commercially-owned industrial banks, re-emphasizing that such institutions are subject to regulations that prevent tying and that, they believe, effectively restrict transactions with affiliates. Other commenters disagreed, contending that commercially-owned industrial banks are more likely to have conflicts of interest than other insured institutions because they have an inherent incentive to advance the interests of their commercial affiliates. According to these commenters, this necessarily requires frustrating the interests of competitors, and creates a propensity for industrial banks to discriminate in the provision of banking services. Some commenters also encouraged the FDIC to prohibit commercial entities from chartering or acquiring an industrial bank because, as mentioned earlier, they believe that the current statutory and regulatory structure does not sufficiently mitigate the risks unique to such institutions.

Some commenters disputed the belief that commercially-owned industrial banks have a significant competitive advantage over other insured institutions because, in their view, unlike a traditional bank, an industrial bank operates under a limited-purpose charter which narrows the range of services an industrial bank may offer. Also, they asserted that there are public benefits obtained when an industrial bank provides banking services to discrete customer groups. Other commenters disagreed, and reiterated their view that industrial banks have an inherent competitive advantage over other depository institutions because industrial banks have greater access to capital, customers, and marketing opportunities through their parent companies. They also argued that access to niche banking services is already provided by community banks, and that some industrial banks have the potential to cause more harm than good because their rapid growth has added a significant amount of insured deposits to the system in recent years, thereby diluting the Federal Deposit Insurance Fund.

Some commenters again stated that conditions should only be imposed on industrial banks on a case-by-case basis because, in their view, conditions cannot, as a matter of law, be imposed uniformly on such institutions. Other commenters reiterated their concern that industrial banks owned by commercial firms present a greater risk to the Federal Deposit Insurance Fund, and again proposed prohibiting commercial firms from owning industrial banks, or at a minimum, making these forms of ownership subject to standard conditions.

iv. Comments on the Need for Supervisory Change

Some commenters urged the FDIC to consider the sound performance record to date of the industrial bank industry, and the adverse affect that restricting ownership and growth would have on the dual-banking system. These commenters also argued that the FDIC lacks authority to impose restrictions on

industrial banks concerning affiliations, growth, or operations by regulation because industrial banks are explicitly exempt from Federal Consolidated Bank Supervision under the BHCA. In their view, the FDIC's authority is limited to imposing conditions on deposit insurance applications and change in control notices until Congress acts to expand consolidated supervision to cover industrial banks. On the other hand, one commenter urged the FDIC to compare the current landscape of the industrial bank industry to the one that existed when Congress exempted industrial banks from the BHCA, suggesting that Congress did not intend for the exemption to apply to the kind of industrial banks that exist today. Other commenters argued that the FDIC has authority to impose standard conditions on industrial banks by regulation, as long as such action promotes safety and soundness or mitigates risks posed to the Federal Deposit Insurance Fund. Some commenters favored extending the moratorium until Congress has an opportunity to enact legislation to impose Federal Consolidated Bank Supervision on the owners of all industrial banks.

III. Necessity for Additional Supervisory Measures

The FDIC's experience suggests no risk or other possible harm that is unique to the industrial bank charter. Rather, the concerns that have been raised focus on the ownership or control of the industrial bank and on the proposed industrial bank's business model or plan. Consequently, the FDIC's analysis below of how to proceed focuses primarily on the entities that would control the industrial bank.

The mission of the FDIC is to promote the stability of, and public confidence in, the nation's banking system. The FDIC's statutory duties include insuring the deposits of all insured depository institutions, and maintaining and administering the Deposit Insurance Fund.[24] While the bank and thrift chartering agencies seek to maintain the safety and soundness of the institutions subject to their jurisdiction, the FDIC has a unique responsibility for the safety and soundness of all insured banks and savings associations in that it is the only agency which has the power to grant deposit insurance to a bank or savings association, and it is the only agency that has the power to take it away.[25] In granting deposit insurance, the FDIC must consider the factors listed in section 6 of the FDI Act;[26] these factors generally focus on the safety and soundness of the proposed bank or savings association and any risk it may pose to the Deposit Insurance Fund. Similarly, the FDIC can terminate an institution's deposit insurance if the FDIC finds that the institution is engaging in an unsafe or unsound practice or is in an unsafe or unsound condition. Moreover, the FDIC is the sole Federal regulator with responsibility for the safety and soundness of all state nonmember banks, including industrial banks. Not only does the FDIC have the responsibility to decide whether to grant or terminate deposit insurance for state nonmember banks based upon safety and soundness considerations, but it also can issue cease and desist orders and impose civil money penalties based upon safety and soundness considerations.[27] Finally, the FDIC may permit or deny various transactions (*e.g.*, branching, mergers, and changes in bank control) by state nonmember banks based to a large extent on safety and soundness considerations and on its assessment of the risk posed to the Deposit Insurance Fund.[28]

As described above, the FDIC has a statutory duty to monitor, evaluate, and take necessary action to ensure the safety and soundness of state nonmember banks. In order to carry out that responsibility, the FDIC must interpret and apply the law to circumstances that may not have been envisioned or, at least, clearly addressed by statutes written many years in the past. Furthermore, the FDIC has a duty to be proactive, not just reactive; the FDIC does not have to wait until problems or losses occur before it takes action. The FDIC believes that recent developments in the industrial bank industry mandate that the FDIC take action now to ensure the safety and soundness of industrial banks and to protect the Deposit Insurance Fund.

As described above, one of the notable recent developments is the significant growth of the industrial bank industry. In its 2005 report on industrial banks, the GAO highlighted the growth in total industrial bank assets. The GAO noted that between 1987 and 2004, industrial bank assets grew over 3,500 percent.[29] The GAO also noted that in 2004, six industrial banks had at least $3 billion in total assets, and one had over $66 billion in total assets. The report further stated that this growth was primarily concentrated in a few large industrial banks owned by financial services firms. Moreover, the report indicated that as of the end of 2004, six industrial banks owned $119 billion in assets or eighty-five percent of the total industrial bank industry assets and controlled about $64 billion in insured deposits.[30] Finally, the GAO noted that between 1999 and 2005 the insured deposits held by all industrial banks grew by more than 500 percent.[31]

Also, as noted above, industrial bank powers have expanded significantly since the first industrial bank was chartered. When the first industrial banks were chartered, their powers were generally limited to consumer lending. However, as time progressed, the states that chartered industrial banks expanded their powers to the extent that today many industrial banks have virtually the same powers as a state commercial bank.[32]

Another circumstance that has raised concerns is the interest shown by large companies in owning industrial banks. Some of these companies are engaged in activities that are predominantly commercial in nature, *e.g.*, manufacturing, retail sales, and trucking. Some of these companies tend to utilize their subsidiary industrial banks in ways that involve unusual, affiliate-dependent business plans. It has been argued that despite the statutory limitations on transactions with affiliates and on tying between banks and their affiliates, there is nevertheless a substantial potential for conflicts of interest in the absence of Federal Consolidated Bank Supervision. Specifically, a bank may have a strong incentive to take risks, especially credit risks, that it would not otherwise deem prudent or it may engage in illegal tying conduct in order to aid its parent company or other affiliates.

A further consideration is that the banking industry as a whole has enjoyed a period of extraordinary economic

[24] See sections 1 & 11 of the FDI Act, 12 U.S.C. 1811, 1821.

[25] See sections 5 & 8(a) of the FDI Act, 12 U.S.C. 1815, 1818(a).

[26] 12 U.S.C. 1816.

[27] See section 8 of the FDI Act, 12 U.S.C. 1818.

[28] See sections 7(j), 18(c), & 18(d) of the FDI Act, 12 U.S.C. 1817(j), 1828(c), & 1828(d).

[29] *See* GAO Report 05–621, p. 18.

[30] Id.

[31] *See Id.* at 20.

[32] California industrial banks currently have the same powers as California commercial banks except that industrial banks are not permitted to offer demand deposits. See Cal. Fin. Code sections 1401, 1411, & 1412. Utah industrial banks have essentially the same powers as Utah commercial banks except that industrial banks have more limited securities powers and less specific investment authority than commercial banks. *See* Utah Code Ann., Title 7, Chapters 1, 3, & 8. Nevada industrial banks have essentially the same powers as Nevada commercial banks, except for certain insurance and securities powers, which require the approval of the Commissioner of Financial Institutions. *See* Nev. Rev. Stat. § 657.005, *et seq.*

stability in the recent past. There have been no bank or thrift failures in over two and one-half years—a record in the recent history of banking. As a result, the financial viability of industrial banks that are owned by companies not subject to consolidated oversight is largely untested in times of economic stress or a downturn in the economy. There is almost no track record that indicates how such ownership structures might perform under stress and, specifically, whether such ownership would tend to cause or exacerbate any risks to the subsidiary industrial banks or the Deposit Insurance Fund.

Consolidated Federal supervision generally includes reporting, examination, and minimum capital requirements that provide, at a minimum, transparency for the early identification of emerging risks in the affiliated entities. In addition, to the extent that a bank's parent company can serve as a source of strength to the subsidiary bank under Federal Consolidated Bank Supervision, the bank has an additional resource for capital should its financial condition deteriorate. The sometimes limited transparency of companies that are not subject to consolidated oversight makes it more difficult to identify and to control these risks before they may become significant risks to the industrial bank subsidiary. Also, such companies may have no expectation that they should serve as a source of strength to their subsidiary banks. Furthermore, it has been argued that since regulation necessarily imposes a cost on the regulated entity, it is unfair, from a competitive standpoint, to allow companies that control one or more industrial banks to conduct essentially the same business as bank holding companies, financial holding companies, or thrift holding companies that are subject to Federal Consolidated Bank Supervision. It has been argued that to continue to permit this situation would provide an incentive to those institutions that are subject to Federal Consolidated Bank Supervision to migrate to the industrial bank model. Such an incentive would seem contrary to Congress's long-standing preference for Federal Consolidated Bank Supervision.

The main concerns regarding an industrial bank being controlled by another company or layers of companies that lack Federal Consolidated Bank Supervision include (i) the mixing of banking and commerce when a commercial company controls an industrial bank, (ii) the need for the parent company to serve as a source of capital for the subsidiary industrial bank, and (iii) the difficulty in identifying problems or risks that may develop in the company or its subsidiaries and controlling or preventing the extent to which they impact the industrial bank. The FDIC believes that it can deal with the latter two concerns in the manner detailed by the proposed rules

Banks that are owned by one or more individuals, of course, have neither a parent company nor parent company subsidiaries, and as a result, they generally do not present the same potential for problems as banks owned by companies. Industrial banks that are controlled by companies, however, do present some significant risks. Because industrial banks are generally excluded from the definition of ''bank'' under the BHCA, companies, whether engaged in commercial activities or financial activities, that own an industrial bank would not necessarily be subject to Federal Consolidated Bank Supervision.

Because the financial services industry continues to evolve to meet the needs of the marketplace, the regulation of insured depository institutions needs to continue to evolve to accommodate those changes. In that regard, the FDIC's views on the supervision of industrial banks to be owned by companies have also evolved. While any one of the developments that have occurred in the industrial bank industry over the last two decades might not, in isolation, be sufficient to warrant regulatory action, the convergence of all of these developments at this point in time argues for caution and for an approach designed to provide greater transparency and to limit potential risks to industrial banks and to the Deposit Insurance Fund resulting from control by companies that are not subject to Federal Consolidated Bank Supervision. The adoption of a set of comprehensive safeguards would provide a Federal set of standards and requirements [33] that the FDIC can apply and enforce independent of the state authorities in a manner that fulfills the FDIC's mission efficiently and to the fullest extent possible.

The FDIC believes that it is prudent to limit or control the exposure presented by some of these ownership structures by imposing controls on them now before there is a substantial proliferation of them. There is no reason to believe that interest in industrial banks will subside; in fact, there is a good possibility that it may intensify. If problems were to develop once a large number of industrial banks are controlled by companies not subject to consolidated oversight, the risks could be magnified greatly and become more difficult to address than if appropriate regulatory action is taken now.

The FDIC recognizes that companies that are only engaged in financial activities are engaged in activities that are generally well-understood by, or at least, familiar to, the Federal banking agencies. The FDIC also recognizes that the Federal banking agencies generally have effective systems and procedures for dealing with the risks presented by most financial activities. However, unlike companies subject to Federal Consolidated Bank Supervision, financial companies that are not subject to consolidated federal supervision (Non-FCBS Financial Companies) that own industrial banks may not provide the same level of transparency nor the same opportunity for supervisors to deal with the risks. As deposit insurer and as the primary Federal banking supervisor for industrial banks, the FDIC must ensure that the risks arising from the business activities of the owners of insured industrial banks do not impair the safety and soundness of those industrial banks or impose undue risks on the Deposit Insurance Fund. This requires a focus on the risks from the insured institution's activities as well as the activities of its owner. Where insured industrial banks are owned by Non-FCBS Financial Companies, it is increasingly important for the FDIC to exercise its powers as deposit insurer and as the primary Federal banking supervisor for industrial banks to provide oversight to control the risks that may be created by such owners.

The regulatory action that the FDIC is proposing today is directed only at industrial banks that will become subsidiaries of Non-FCBS Financial Companies, that is, companies that (i) are engaged only in financial activities, and (ii) are not subject to Federal Consolidated Bank Supervision. As noted in the notice of limited extension of the moratorium published elsewhere in the **Federal Register** today, the FDIC is not proposing any changes in its regulation or supervision of industrial banks that will be directly controlled by one or more individuals. Furthermore, the FDIC is not proposing any changes in its regulation or supervision of an industrial bank that will become a subsidiary (direct or indirect) of an FCBS Financial Company, that is, a company that (i) is engaged only in financial activities and (ii) is subject to Federal Consolidated Bank Supervision

[33] While some of the chartering states do have supervisory authority over companies that control industrial bank subsidiaries, that is not true of all of the states that charter industrial banks.

(*i.e.*, a bank holding company, a financial holding company, or a savings and loan holding company). With respect to industrial banks that will be owned by companies engaged in commercial activities, the FDIC is extending the moratorium to allow more time for study by the FDIC and to allow time for Congress to consider the issues presented by such an ownership model. In publishing the proposed rules, and in extending the moratorium for one year, the FDIC is not expressing any conclusion about the propriety of control of industrial banks by commercial companies. Rather, the FDIC has determined that it is appropriate to provide additional time for review of such ownership and the related issues by the FDIC and by Congress.

As noted above, the proposed rules are limited in their application to industrial banks that will become subsidiaries of Non-FCBS Financial Companies. The current limitation is essential to limit any change in the nature of the corporate owner's business to financial activities until such time as the moratorium expires or other appropriate action is taken by the FDIC or Congress.

Access to current and complete information about the potential risks to an insured industrial bank that may be created by the operations of its parent company or its affiliates is especially critical today because of the speed with which an industrial bank or its parent company can move into new and more risky business operations. Changes in the overall corporate focus of the owners of even well-rated institutions could lead to participation in risky or emerging activities that could jeopardize the insured institution's safety and soundness well before supervisory ratings would typically be adjusted. More fundamentally, under current regulations the FDIC may not always have timely access to information about the risks posed by changes in the business focus of parent companies without direct access to these owners. We believe that it is prudent to issue the proposed Part 354 in order to gain an understanding of the emerging risks that may be developing in some of the large and complex companies that may desire to control an industrial bank.

With respect to industrial banks that become subsidiaries of Non-FCBS Financial Companies, the proposed rules are intended to provide the safeguards that the FDIC believes could be helpful to identify and avoid or control, on a consolidated basis, the safety and soundness risks and the risks to the Deposit Insurance Fund that may result from that kind of company-ownership model. The proposed rules would, therefore, provide enhanced transparency and a system of controls that should effectively deal with the risks presented by such ownership structures.

The proposed rules would not apply to industrial banks that are already owned by financial companies not subject to Federal Consolidated Bank Supervision. However, the FDIC will continue to exercise close supervision of these industrial banks and any risks that may be created in the future from their parent companies or affiliates to ensure that these institutions continue to operate in a safe and sound manner.

Finally, while the proposed rules are pending, the FDIC will consider deposit insurance applications and change in control notices with respect to industrial banks that will be controlled by financial companies that are not subject to Federal Consolidated Bank Supervision on a case-by-case basis. After any final rules are adopted, the FDIC will consider requests to modify any conditions and requirements agreed to during the period between issuance of the proposed rules and the effective date of the final rules to conform such conditions and requirements to those in the final rules.

IV. Authority for Additional Supervisory Measures

The FDIC has the authority to issue such rules and regulations as it deems necessary to carry out the provisions of the FDI Act [34] including rules to ensure the safety and soundness of industrial banks and to protect the Deposit Insurance Fund.[35] The FDIC also has the authority to issue rules to ensure the safety and soundness of insured depository institutions. As noted above, the mission of the FDIC is to promote the stability of, and public confidence in, the nation's banking system and to protect the Deposit Insurance Fund. Moreover, as deposit insurer, the FDIC has a unique responsibility for the safety and soundness of all insured banks and savings associations. In granting deposit insurance for any insured depository institution, including industrial banks, as well as in terminating it, the FDIC must assess the safety and soundness of the institution.[36] The FDIC also can issue a cease and desist order against, or impose civil money penalties on, an industrial bank and any institution-affiliated party (including a parent company of the industrial bank) based upon the FDIC's assessment of safety and soundness considerations.[37] Furthermore, the FDIC can order an industrial bank and its parent company to take other corrective action, e.g., provide indemnification, dispose of any asset, or rescind contracts based upon safety and soundness considerations.[38] Finally, the FDIC may permit or deny various transactions (e.g., branching, mergers, and changes in bank control) by industrial banks based on, at least in part, safety and soundness considerations and risk to the Deposit Insurance Fund.

Also as discussed above, the FDIC has a statutory duty to monitor, evaluate, and take necessary action to ensure the safety and soundness of industrial banks. Courts have recognized that the determination of what is safe and sound is committed to the expertise of the regulatory agencies.[39] The proposed rules reflect the FDIC's concern that, without the provisions detailed in the proposed rules, control of industrial banks by financial companies that are not subject to Federal Consolidated Bank Supervision limits the FDIC's ability to oversee the potential risks to the industrial bank and to the Deposit Insurance Fund from such owners. Importantly, the FDIC has a duty to take appropriate action to guard against threats to the safety and soundness of industrial banks and to the Deposit Insurance Fund; the FDIC does not have to wait until problems or losses occur before it takes action.[40] The FDIC believes that the recent developments in the industrial bank industry described above mandate that the FDIC take action now in the form of the proposed rules to ensure the safety and soundness of industrial banks controlled by such financial companies and to protect the Deposit Insurance Fund.

V. Discussion of Proposed Rules

Some of the principal concerns that have emerged regarding industrial banks to be controlled by Non-FCBS Financial Companies center on the transparency

[34] See sections 9(a)(Tenth) and 10(g) of the FDI Act, 12 U.S.C. 1819(a)(Tenth), 1820(g).

[35] See section 8 of the FDI Act, 12 U.S.C. 1818.

[36] See sections 5, 6, & 8(a) of the FDI Act, 12 U.S.C. 1815, 1816, & 1818(a).

[37] See section 8(b), (i) of the FDI Act, 12 U.S.C. 1818(b), (i).

[38] See section 8(b)(6) of the FDI Act, 12 U.S.C. 1818(b)(6).

[39] See *Groos National Bank* v. *Comptroller of the Currency*, 573 F.2d 889, 897 (5th Cir. 1978), *First National Bank of LaMargue* v. *Smith*, 610 F.2d 1258, 1265 (5th Cir. 1980).

[40] See *Independent Bankers Ass'n of Am.* v. *Heimann*, 613 F.2d 1164, 1169 (D.C. Cir. 1979), cert. denied 449 U.S. 823 (1980); *Investment Company Institute* v. *FDIC*, 815 F.2d 1540, 1549 (D.C. Cir. 1987); *National Council of Savings Institutions* v. *FDIC*, 664 F. Supp. 572 (D.D.C. 1987) see also *First Nat'l Bank of Lamarque* v. *Smith*, 610 F.2d 1258 (5th Cir. 1980).

of such parent companies and their subsidiaries, the need for a source of strength for the industrial bank subsidiary, capital maintenance, and dependence by the industrial bank on the parent company and its subsidiaries. Generally, the proposed rules would assure, through reporting and examinations, that the FDIC has the ability to obtain transparency with respect to a parent company and its subsidiaries. Furthermore, the proposed rules would require that the parent company serve as a resource for additional capital for the industrial bank. Finally, the proposed rules would provide some control over the dependence of the industrial bank on the parent company and its other subsidiaries. For example, the proposed rules would limit a parent company's representation on the board of a subsidiary industrial bank to 25%. Additionally, the proposed rules also would require prior FDIC approval before the industrial bank may make a material change in its business plan or add or replace a board member or senior executive officer during the first three years after becoming a subsidiary of a financial company.

The conditions and requirements proposed in part 354 are not novel. In many cases financial companies, e.g., companies engaged in securities or mortgage lending, come under some type of supervision already and, therefore, are used to some form of regulatory scheme and supervision. Moreover, some of the requirements that would be imposed by these proposed rules have been imposed in the past on a case-by-case basis. For example, in the course of considering deposit insurance applications or change in control notices, the FDIC has required parent companies to execute written agreements to maintain a subsidiary bank's capital and liquidity at certain minimum levels; in addition, the FDIC has required that a bank maintain its capital at a certain level and obtain the FDIC's prior consent before it changes its business plan or replaces a board director. The FDIC has concluded that the statutory objectives of maintaining the safety and soundness of industrial banks and controlling the risks to the Deposit Insurance Fund would be furthered if the proposed requirements were imposed uniformly on all industrial banks that are to be owned by Non-FCBS Financial Companies. The following is a section-by-section discussion of the proposed rules.

Section 354.1 Scope

This section describes the industrial banks that are subject to the requirements detailed in part 354. The requirements described in the following sections of part 354 are in addition to the statutory and regulatory requirements otherwise applicable to applications and notices filed with respect to such industrial banks. The industrial banks that are subject to the following requirements are those that will, after the effective date of the rules, become subsidiaries of companies that are engaged solely in financial activities and that are not subject to Federal Consolidated Bank Supervision by the FRB or the OTS, that is, Non-FCBS Financial Companies. The proposed rules would apply to such industrial banks whether they become subsidiaries of such Non-FCBS Financial Companies as a result of the grant of deposit insurance to a newly-chartered industrial bank, as a result of a change in control with respect to the industrial bank, or as a result of a merger or consolidation of a parent company of the industrial bank with one or more other companies. Thus, this part would not apply to any industrial bank that will, after the effective date of the rules, become a subsidiary of any company that is engaged solely in financial activities and that is, or will be, subject to Federal Consolidated Bank Supervision by the FRB or the OTS, that is, a FCBS Financial Company. In addition, this part does not apply to any industrial bank that will be wholly, and directly, owned by one or more individuals (i.e., the industrial bank will not be controlled, directly or indirectly, by any company). Finally, this part does not apply to any industrial bank that will become a subsidiary of any company engaged in non-financial activities (i.e., activities other than financial activities as that term is defined in section 354.2).

Section 354.2 Definitions

This section lists the definitions that apply to this part. The term ''control'' would be defined as it is in the FDIC's change in control regulations at 12 CFR 303.81(c) and specifically would include the rebuttable presumption of control at 12 CFR 303.82(b)(2).

Under these provisions a person (including a company) would control an industrial bank if the person would have the power, directly or indirectly, to (i) vote 25 percent or more of any class of voting shares of any industrial bank or any company that controls the industrial bank (i.e., a parent company), or (ii) direct the management or policies of any industrial bank or any parent company. In addition, the FDIC presumes that a person would have the power to direct the management or policies of any industrial bank or any parent company if the person will, directly or indirectly, own, control, or hold with power to vote at least 10 percent of any class of voting shares of any industrial bank or any parent company, and either the industrial bank's shares or the parent company's shares are registered under section 12 of the Securities Exchange Act of 1934, or no other person (including a company) will own, control or hold with power to vote a greater percentage. If two or more persons (including companies), not acting in concert, will each have the same percentage, each such person will have control. As noted above, control of an industrial bank can be indirect. For example, company A may control company B which in turn may control company C which may control an industrial bank. Company A and company B would each have indirect control of the industrial bank, and company C would have direct control. As a result, the industrial bank would be a subsidiary (as defined below) of each such company. The term ''financial activity'' would be defined to include any activity that either of the following entities may engage in: (i) A financial holding company, as described in the BHCA and the implementing regulations of the FRB,[41] or (ii) a savings and loan holding company, as described in the Home Owners' Loan Act (''HOLA''). The FDIC intends to follow the written guidance of the FRB and OTS in its interpretations of the term ''financial activity'' and to consult with the FRB and/or OTS before making any decisions. The term ''Non-FCBS Financial Company'' would be defined to mean any company that is not subject to Federal Consolidated Bank Supervision and that is engaged solely in financial activities. This definition, therefore, would exclude financial companies that are subject to Federal Consolidated Bank Supervision by the FRB or OTS (''FCBS Financial Companies''), as well as commercial companies. The term ''industrial bank'' would be defined to mean any insured state bank that is an industrial bank, industrial loan company or other similar institution that is excluded from the BHCA definition of ''bank.'' The term ''senior executive officer'' would have the meaning given to it in the FDIC's regulations on changes in senior executive officer at 12 CFR 303.101(b). The term ''subsidiary'' would be specifically defined to mean any

[41] Bank holding companies are not separately listed because financial holding companies can engage in every activity that a bank holding company can.

company which is controlled, directly or indirectly, by another company. Finally, the terms ''company'' and ''insured depository institution'' would have the meanings given them in the FDI Act.

Section 354.3 Written Agreement

This section would prohibit any industrial bank from becoming a subsidiary of a Non-FCBS Financial Company unless the Non-FCBS Financial Company enters into one or more written agreements with the FDIC and the industrial bank. In such agreements the company would make certain commitments to the FDIC including those listed in paragraphs (a) through (h) of section 354.4 and such other provisions as the FDIC may deem appropriate in the particular circumstances. When two or more financial companies will control (as the term ''control'' is defined in section 354.2), directly or indirectly, the industrial bank, each such financial company would have to execute such written agreement(s). This circumstance could occur, for example, (i) when two or more Non-FCBS Financial Companies will each have the power to vote 10% or more of the voting stock of an industrial bank or of a company that controls an industrial bank which stock is registered under section 12 of the Securities Exchange Act of 1934, or (ii) when one Non-FCBS Financial Company will control another financial company that directly controls an industrial bank.

Section 354.4 Conditions and Provisions of Written Agreement

This section would include a list of the commitments that the Non-FCBS Financial Company would agree to observe. There are eight commitments lettered (a) through (h); they are intended to provide the safeguards and protections that the FDIC believes would be prudent to impose with respect to maintaining the safety and soundness of industrial banks that are controlled by Non-FCBS Financial Companies. In order to provide the FDIC with more timely and more complete information about the activities, financial condition, operations, and risks of each parent Non-FCBS Financial Company and its subsidiaries, the FDIC believes that each such Non-FCBS Financial Company that controls the industrial bank must furnish the FDIC an initial listing, with annual updates, of all of the company's subsidiaries (commitment (a)); consent to the FDIC's examination of the company and each of its subsidiaries (commitment (b)); submit to the FDIC an annual report on the company and its subsidiaries, and such other reports as the FDIC may request (commitment (d)); maintain such records as the FDIC deems necessary to assess the risks to the industrial bank and to the Deposit Insurance Fund (commitment (e)); and cause an independent annual audit of each subsidiary industrial bank to be performed during the first three years after the industrial bank becomes its subsidiary (commitment (f)). In order to ensure that each Non-FCBS Financial Company parent remains a financial company, it would also have to commit that it will engage, directly or indirectly, only in financial activities (commitment (c)). In order to ensure that the subsidiary industrial bank maintains sufficient capital and/or liquidity, each parent financial company would commit to maintain each industrial bank subsidiary's capital and/or liquidity at such levels as the FDIC deems appropriate and/or take such other action as the FDIC deems appropriate to provide each industrial bank with a resource for additional capital/or liquidity (commitment (h)). Finally, in order to limit the extent of each parent financial company's influence over the subsidiary industrial bank, each such company would commit to limit its representation on the industrial bank's board of directors to 25% of the members of the board, or if the bank is organized as a limited liability company and is managed by a board of managers, to 25% of the members of the board of managers, or if the bank is organized as a limited liability company and is managed by its members, to 25% of managing member interests (commitment (g)). For example, if company A controlled company B which had 15% representation on the industrial bank's board, company B's representation would be attributed to company A, and company A would be limited to 10% direct representation on the bank's board.

This section would also provide that each approval of a deposit insurance application and each issuance of a non-objection to a change in control with respect to an industrial bank that would become a subsidiary of a financial company would be conditioned on each parent Non-FCBS Financial Company complying with (a) through (h) of the commitments.

Section 354.5 Restrictions on Industrial Bank Subsidiaries of Financial Companies

This section would require the FDIC's prior written approval before an industrial bank that becomes a subsidiary of a Non-FCBS Financial Company may take certain actions. These restrictions, like the commitments discussed above, are generally intended to provide the safeguards and protections that the FDIC believes would be prudent to impose with respect to maintaining the safety and soundness of industrial banks that become controlled by financial companies not subject to Federal Consolidated Bank Supervision. Accordingly, the proposed rules would require prior FDIC approval if the subsidiary industrial bank wanted to take any of five actions. In order to ensure that the industrial bank does not immediately after becoming a subsidiary of a Non-FCBS Financial Company engage in high-risk or other inappropriate activities, the bank would have to get the FDIC's prior approval to make a material change in its business plan during the first three years after becoming a subsidiary of a financial company (paragraph (a)). In order to limit the influence of its parent Non-FCBS Financial Company, the bank would have to get the FDIC's prior approval to add or replace a member of the board of directors or board of managers or a managing member, as the case may be, during the first three years after becoming a subsidiary of a financial company (paragraph (b)); add or replace a senior executive officer during the first three years after becoming a subsidiary of a financial company (paragraph (c)); employ a senior executive officer who is associated in any manner with an affiliate of the industrial bank, e.g., as a director, officer, employee, agent, owner, partner, or consultant of the financial company or a financial company subsidiary (paragraph (d)); or finally, enter into any contract for essential services with the financial company or a financial company subsidiary (paragraph (e)).

Request for Comments

The FDIC is seeking comments on all aspects of the proposed rules, including the following questions:

1. The requirements described in this notice would apply to industrial banks that become subsidiaries of companies that are engaged solely in financial activities, but that are not subject to Federal Consolidated Bank Supervision, and to those financial companies (''Non-FCBS Financial Companies''). Some of the provisions include continuing requirements, e.g., to maintain capital or to engage only in financial activities. Should the regulations include a cure period in the event that the industrial bank or its parent company initially comply with these requirements, but

later fall out of compliance? If so, should such a cure period be provided for all requirements or just some of them (please specify)? For example, section 4(m) of the BHCA, 12 U.S.C. 1843(m), generally provides a 180-day cure period for a financial holding company if any of its subsidiary depository institutions fails to be well-capitalized and/or well-managed.

2. With regard to such continuing requirements, whether or not there is a cure period, should the rules provide for remedies beyond cease and desist orders and civil money penalties, e.g., should violations of some of these requirements require divestiture of the industrial bank similar to the divestiture provisions in section 4(m)(4) of the BHCA, 12 U.S.C. 1843(m)(4)? If so, for which requirements? Should the written agreement with the parent company and the industrial bank include a provision requiring the parent company to divest the industrial bank if the parent company begins to engage, directly or indirectly, in non-financial activities? Alternatively, should the FDIC simply rely on section 8(b)(7) of the FDI Act, 12 U.S.C. 1818(b)(7), to order divestiture? [42]

3. Under the Bank Holding Act, a commercial company that becomes a bank holding company has a period of time after becoming a bank holding company subject to the supervision of the FRB in which to divest itself of its nonconforming commercial activities or, alternatively, of its bank(s). Should a commercial company seeking to acquire an industrial bank and to divest itself of its commercial activities so that it would become a Non-FCBS Financial Company similarly be given a period of time by the FDIC within which it would be subject to the FDIC's supervisory oversight, but would be allowed to divest itself of its commercial activities or its industrial bank(s)? If so, for what period of time?

4. Should the FDIC further define ''services essential to the operations of the industrial bank'' as that phrase is used in the proposed section 354.5(e)? Should the restriction in that section be clarified to include core banking services or risk management functions?

5. For purposes of transparency and identifying any potential risks to the industrial bank, we have included commitments requiring examination and reporting. Is this approach the best way to gain that transparency, or is there a better way? To what extent, if any, is the FDIC's supervision enhanced by requiring a parent company of an industrial bank to consent to examination of the company and each of its subsidiaries as proposed in part 354? Is there another way to identify any potential risks?

6. Is it appropriate for the FDIC to impose reporting and recordkeeping requirements on a parent company of an industrial bank and/or the parent company's subsidiaries?

7. The Gramm-Leach-Bliley Act of 1999 imposed certain restrictions on the extent to which a Federal banking agency may regulate and supervise a functionally regulated affiliate of an insured depository institution.[43] For example, such restrictions limit the FDIC's authority to require reports from, examine, and impose capital requirements on such a functionally regulated affiliate. In view of these restrictions, should the conditions and requirements contained in the proposed rules be modified to the extent that they might apply to insurance companies and securities companies that may wish to control an industrial bank?

8. The proposed regulation does not apply to a financial company that is supervised by the FRB or the OTS. Should this treatment be extended to a financial company that is subject to consolidated Federal supervision by the U.S. Securities and Exchange Commission as a ''consolidated supervised entity'' pursuant to 17 CFR 240.15c3–1(a)(7), 240.15c3–1e, 240.15c3–1g, 240.17a–4(b)(12), 240.17a–5(a)(5) and (k), 240.17a–11(b)(2) and (h), 240.17h–1T(d)(4), and 240.17h–2T(b)(4)?

9. In order to ensure that each parent financial company can serve as a source of strength to its industrial bank subsidiary and fulfill its obligation under a capital maintenance agreement, should the FDIC include a commitment that the parent company will maintain its own capital at such a level that the Tier 1 capital ratio for the company, on a consolidated basis, is at least 4% or some other level in some or all circumstances?

10. If, at the conclusion of the moratorium, Congress has not acted on legislation, how should the FDIC address the pending and any future applications by commercial companies?

[42] Section 8(b)(7) generally provides that in the event that an institution-affiliated party engages in an unsafe or unsound practice, violates any law, regulation, or condition imposed in writing in connection with the granting of any application or request by the depository institution, or any written agreement entered into with the agency, the FDIC may ''place limitations on the activities or functions of an insured depository institution or any institution-affiliated party.'' The term ''institution-affiliated party'' would include a company that is a controlling stockholder of the bank and any person who has filed or is required to file a change in control notice with the FDIC.

[43] See section 45 of the FDI Act, 12 U.S.C. 1831v.

Regulatory Analysis and Procedure

A. Solicitation of Comments on Use of Plain Language

Section 722 of the Graham-Leach-Bliley Act requires the Federal banking agencies to use ''plain language'' in all proposed and final rules published after January 1, 2000. The FDIC invites comments on whether the proposed rules are clearly written and if not, how the language of the proposed rules might be improved.

B. Regulatory Flexibility Act

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (''RFA'') (5 U.S.C. 601 *et. seq.*) requires the agency to prepare and make available for public comment an initial regulatory flexibility analysis (5 U.S.C. 603) or certify, in lieu of preparing an analysis, that the proposed rules, if adopted, would not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605). The proposed rules directly affect two types of entities: (i) Any financial company that is not subject to Federal Consolidated Bank Supervision that after the effective date of the rules becomes the parent company of an industrial bank, and (ii) the financial company's subsidiary industrial bank formed or acquired after the effective date of the rules. Based on its experience with deposit insurance applications and change in control notices involving industrial bank subsidiaries of financial companies (as defined in the proposed rules) from 1996 through 2005, and focusing particularly on the period from 2001 through 2005, the FDIC estimates for purposes of the threshold RFA analysis that in the future the proposed rules will affect an average of three entities per year, only one of which will be a small entity. One entity is not a substantial number. Therefore, the FDIC certifies that the proposed rules will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the FDIC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The collection of information contained in the proposed rules has been submitted to OMB for review.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC concerning the Paperwork Reduction Act implications of this proposal. Such comments should refer to ''PRA-Industrial Banks.'' Comments on Paperwork Reduction Act issues may be submitted by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/propose.html.*
- *E-mail: comments@FDIC.gov.* Include ''PRA—Industrial Banks'' in the subject line of the message.
- *Mail:* Steve Hanft (202–898–3907), Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.
- *A copy of the comments may also be submitted to:* OMB desk officer for the FDIC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

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; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

(5) Estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to provide information.

Title of the collection: Industrial Banks.

Summary of the collection: The collection consists of reporting and recordkeeping requirements associated with the supervision of insured industrial loan companies or industrial banks that become subsidiaries of financial companies after the effective date of the rules. More specifically, the collection consists of an initial listing of all of the company's subsidiaries, and an annual update to that list; an annual report regarding the company's operations and activities; occasional other reports regarding the activities, financial condition, risk monitoring systems, transactions with the subsidiary industrial bank, and compliance with Federal laws, of, or by, the company and each of its subsidiaries; quarterly reports on capital ratio calculations; external audits; Board membership; maintenance of capital and liquidity; maintenance of certain records; and notices and applications seeking FDIC approval to take certain actions. These information collections are contained in sections 354.4 and 354.5 of the rules.

Frequency of the collection: For the listing of all of the company's subsidiaries, and the report regarding the company's operations and activities, the frequency of response is annual; the other collections occur on occasion.

Annual burden estimate:

Estimated number of respondents: Three.

Estimated annual burden per respondent: 255 burden hours.

Total estimated annual burden: 765 burden hours.

The Treasury and General Government Appropriations Act, 1999—Assessment of Impact of Federal Regulation on Families

The FDIC has determined that this proposal will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681.

List of Subjects in 12 CFR Part 354

Bank deposit insurance, Banks, Banking, Finance, Holding companies, Industrial banks, Insurance, Reporting and recordkeeping requirements, Savings associations.

For the reasons set forth in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to add 12 CFR part 354 as follows:

PART 354—INDUSTRIAL BANK SUBSIDIARIES OF FINANCIAL COMPANIES

Sec.

354.1 Scope.
354.2 Definitions.
354.3 Written agreement.
354.4 Conditions and provisions of written agreement.
354.5 Restrictions on industrial bank subsidiaries of financial companies.

Authority: 12 U.S.C. 1811, 1815, 1816, 1817, 1818, 1819(a) (Seventh) and (Tenth), 1820(g), 3108, 3207.

§ 354.1 Scope.

(a) This part, in addition to applicable notice or application procedures in part 303 of this chapter, establishes certain requirements for an industrial bank to become, after the effective date of the rules, a subsidiary of a company that is engaged solely in financial activities and that is not subject to Federal Consolidated Bank Supervision by the Federal Reserve Board (FRB) or the Office of Thrift Supervision (OTS) (a ''Non-FCBS Financial Company'').

(b) This part does not apply to:

(1) Any industrial bank that will become, after the effective date of the rules, controlled by a company that is engaged solely in financial activities and that is subject to Federal Consolidated Bank Supervision by the FRB or the OTS,

(2) any industrial bank that will not become a subsidiary of a company, and

(3) any industrial bank that will become, after the effective date of the rules, a subsidiary of a company engaged in non-financial activities.

§ 354.2 Definitions.

For purposes of this part the following definitions apply.

(a) The term ''*control*'' has the meaning given it in 12 U.S.C. 1817(j)(8) and 12 CFR 303.81(c) and includes the rebuttable presumption of control at 12 CFR 303.82(b)(2).

(b) The term ''*financial activity*'' includes

(1) banking, managing or controlling banks or savings associations;

(2) any activity permissible for financial holding companies under 12 U.S.C. 1843(k), any specific activity that is listed as permissible for bank holding companies under 12 U.S.C. 1843(c) and activities that the Federal Reserve Board (FRB) has permitted for bank holding companies under 12 CFR 225.28 and 225.86, and

(3) any activity permissible for all savings and loan holding companies under 12 U.S.C. 1467a(c).

(c) The term ''*Non-FCBS Financial Company*'' means a company that is not subject to Federal Consolidated Bank Supervision by the FRB or the OTS, and that is solely engaged, directly or indirectly, in financial activities.

(d) The term ''*industrial bank*'' means any insured State Bank that is an industrial bank, industrial loan company or other similar institution that is excluded from the definition of ''bank'' in the Bank Holding Company Act (BHCA) pursuant to 12 U.S.C. 1841(c)(2)(H).

(e) The term ''*senior executive officer*'' has the meaning given it in 12 CFR 303.101(b).

(f) The term ''*subsidiary*'' means any company which is controlled, directly or indirectly, by another company.

(g) The terms ''*company*'' and ''insured depository institution'' have the meanings given them in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813.

§ 354.3 Written agreement.

No industrial bank may become a direct or indirect subsidiary of a Non-FCBS Financial Company unless the Non-FCBS Financial Company enters into one or more written agreements with the FDIC and the subsidiary industrial bank which contain commitments by the company to comply with each of paragraphs (a) through (h) in § 354.4 and such other provisions as the FDIC deems appropriate in the particular circumstances.

§ 354.4 Conditions and provisions of written agreement.

The commitments required to be made in the written agreements referenced in § 354.3 by each Non-FCBS Financial Company that will control an industrial bank are listed as paragraphs (a) through (h) of this section. In addition, each grant of deposit insurance and each issuance of a non-disapproval of a change in control with respect to an industrial bank subject to this part will be conditioned on each parent Non-FCBS Financial Company complying with paragraphs (a) through (h) of this section:

(a) Submitting to the FDIC an initial listing of all of the company's subsidiaries, and updating that list annually;

(b) consenting to examination of the company and each of its subsidiaries to monitor compliance with the provisions of the Federal Deposit Insurance Act or any other Federal law that the FDIC has specific jurisdiction to enforce against such company or subsidiary and those governing transactions and relationships between any depository institution subsidiary and its affiliates;

(c) engaging, directly or indirectly, only in financial activities;

(d) submitting to the FDIC an annual report regarding the company's operations and activities, in the form and manner prescribed by the FDIC, and such other reports as may be requested by the FDIC to keep the FDIC informed as to financial condition, systems for monitoring and controlling financial and operating risks, and transactions with depository institution subsidiaries of the company; and compliance by the company or subsidiary with applicable provisions of the Federal Deposit Insurance Act or any other Federal Law that the FDIC has specific jurisdiction to enforce against such company or subsidiary;

(e) maintaining such records as the FDIC may deem necessary to assess the risks to the industrial bank or to the Deposit Insurance Fund;

(f) causing an independent annual audit of each subsidiary industrial bank to be performed during the first three years after the industrial bank becomes a subsidiary of the company;

(g) limiting its representation, direct and indirect, on the board of directors or board of managers, as the case may be, of each subsidiary industrial bank to no more than 25% of the members of such board of directors or board of managers, in the aggregate, and, in the case of a subsidiary industrial bank that is organized as a member-managed limited liability company, limiting its representation as a managing member to no more than 25% of the managing member interests of the subsidiary industrial bank, in the aggregate;

(h) maintaining the subsidiary industrial bank's capital and liquidity at such levels as the FDIC deems appropriate, and/or taking such other actions as the FDIC deems appropriate to provide the industrial bank with a resource for additional capital and liquidity including, for example, pledging assets, obtaining and maintaining a letter of credit, and indemnifying the industrial bank.

§ 354.5 Restrictions on industrial bank subsidiaries of financial companies.

Without the FDIC's prior written approval, no industrial bank that becomes a subsidiary of a Non-FCBS Financial Company after the effective date of the rules shall:

(a) Make a material change in its business plan during the first three years after becoming a subsidiary industrial bank,

(b) add or replace a member of the board of directors, board of managers, or a managing member, as the case may be, of the subsidiary industrial bank during the first three years after becoming a subsidiary industrial bank,

(c) add or replace a senior executive officer during the first three years after becoming a subsidiary industrial bank,

(d) employ a senior executive officer who is associated in any manner (e.g., as a director, officer, employee, agent, owner, partner, or consultant) with an affiliate of the industrial bank, or

(e) enter into any contract for services essential to the operations of the industrial bank (for example, loan servicing function) with its parent financial company or any subsidiary thereof.

Dated at Washington, DC, this 31st day of January, 2007.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E7–1854 Filed 2–2–07; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–147144–06]

RIN 1545–BG09

Certain Transfers of Stock or Securities by U.S. Persons to Foreign Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations under section 367(a) of the Internal Revenue Code (Code) regarding gain recognition agreements. These regulations are necessary to respond to comments requested in Notice 2005–74. The regulations primarily affect U.S. persons that transfer stock or securities to foreign corporations or corporations engaged in transactions that affect existing gain recognition agreements. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by May 7, 2007.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–147144–06), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–147144–06), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically, via the IRS Internet site at *http://www.irs.gov/regs* or via the Federal eRulemaking Portal at *http://*

www.regulations.gov (IRS REG–147144–06).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Daniel McCall, (202) 622–3860; concerning submissions of comments, requests for a public hearing, and/or to be placed on the building access list to attend a hearing, contact Richard Hurst at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by May 7, 2007.

Comments are specifically requested concerning:

Whether the proposed collections of information are necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital and start-up costs of operation, maintenance, and purchase of service to provide information.

The collections of information in this proposed regulation is in § 1.367(a)–8(b)(3)(iii), (e)(1) through (e)(8), and (g). Responses to these collections of information are required to prevent triggering gain recognition agreements—for example, by submitting new gain recognition agreements or by submitting elections to reduce basis in certain stock. Responses are also required to facilitate electronic filing. These regulations include a rule requiring that gain or interest due under section 367(a) be included in a schedule that can be attached to a taxpayer's electronically-filed return. Response to these collections of information is mandatory. The likely respondents are large corporations.

Estimated total annual reporting burden: 240.

Estimated average annual burden hours per respondent: from 1 hour to 2 hours, depending on individual circumstances.

Estimated number of respondents: 170.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to these collections of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 367(a) of the Internal Revenue Code (Code) and gain recognition agreements. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required.

It is hereby certified that the collections of information contained in these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. These regulations primarily will affect United States persons that are large corporations engaged in cross-border corporate transactions. Thus, the number of affected small entities—in whichever of the three categories defined in the Regulatory Flexibility Act (small businesses, small organizations, and small governmental jurisdictions)—will not be substantial. The IRS and Treasury Department estimate that small organizations and small governmental jurisdictions are likely to be affected only insofar as they might hold a portfolio interest in stock or securities and in the unlikely event that they transfer such stock or securities to a foreign corporation. While a certain number of small entities may transfer stock or securities to a foreign corporation in connection with an acquisition or reorganization, the IRS and Treasury Department do not anticipate the number to be substantial. Furthermore, the IRS and Treasury Department estimate that those small entities that are affected by the regulations will likely face a burden of approximately two hours at an hourly rate of $200. Considering that the collections of information enable taxpayers to defer or avoid the recognition of potentially large amounts of gain that is subject to a gain recognition agreement, IRS and Treasury believe that $400 is not a significant economic impact. Comments about the accuracy of this certification may be submitted to the addresses provided in the preamble. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rules and how they can be made easier to understand. For additional requests for comments, see the section ''Request for Comments,'' in the preamble to the cross-referenced temporary regulations of this issue of the **Federal Register**. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Daniel McCall of the Office of Associate Chief Counsel

(International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding the following new entries:

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

Section 1.367(a)–3T(e) also issued under 367(a) and (b).* * *

Section 1.367(a)–8T also issued under 367(a) and (b).* * *

Par. 2. Section 1.367(a)–3 is amended by revising paragraphs (e) and (f) to read as follows:

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

* * * * *

(e) [The text of this proposed amendment is the same as the text of § 1.367(a)–3T(e) published elsewhere in this issue of the **Federal Register**].

(f) [The text of this proposed amendment is the same as the text of § 1.367(a)–3T(f) published elsewhere in this issue of the **Federal Register**].

* * * * *

Par. 3. Section 1.367(a)–8 is revised to read as follows:

§ 1.367(a)–8 Gain recognition agreement requirements.

[The text of proposed § 1.367(a)–8 is the same as the text of § 1.367(a)–8T published elsewhere in this issue of the **Federal Register**.]

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 07–496 Filed 2–1–07; 10:34 am]

BILLING CODE 4830–01–P

POSTAL REGULATORY COMMISSION

39 CFR 3001

[Docket No. RM2007–1; Order No. 2]

Administrative Practice and Procedure, Postal Service

AGENCY: Postal Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Recent legislation alters the postal ratemaking process, and tasks the Postal Regulatory Commission to develop regulations to implement this process. This notice invites public comment, in advance of formulating substantive rule proposals, to guide this process.

DATES: Initial comments due April 6, 2007; reply comments due May 7, 2007.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION: The Postal Accountability and Enhancement Act, Public Law 109–435 (PAEA), directs that the Postal Regulatory Commission (Commission) shall by regulation establish a modern system for regulating rates and classes for market dominant postal products. The PAEA further directs that the Commission shall promulgate regulations to bound Postal Service discretion in setting rates for competitive postal products. Both of these tasks are to be completed by June 19, 2008.

Interested persons are invited to provide written comments and suggestions as to how the Commission can best fulfill these responsibilities to achieve the purposes of the PAEA. Comments are due within 60 days of the date of publication of this notice in the **Federal Register**. All comments and suggestions received will be available for review on the Commission's Web site, *http://www.prc.gov*. Interested persons are further invited to review these submissions and provide follow-up comments and suggestions within 30 additional days, that is, within 90 days of the publication of this notice in the **Federal Register**.

Commenters are requested to specifically explain how suggestions will comport with the specific applicable statutory directions as set out below.

I. Modern Rate Regulation of Market Dominant Products

The PAEA reforms the postal laws of the United States. Among other things, it alters the method by which the rates and fees for postal products may be changed. Separate rules are to apply for market dominant, as opposed to competitive, postal services. The Commission is given 18 months to develop and implement this system. In fulfilling this responsibility, the Commission is to effectuate the following specific policies set forth in the PAEA.

A. Requirements

The system for regulating rates and classes for market dominant products shall:

1. Establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;

2. Include an annual limitation on the percentage changes in rates, to be set by the Commission, that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates;

3. Establish procedures whereby the Postal Service may adjust rates not in excess of the annual limitation;

4. Provide that not later than 45 days before the implementation of any adjustment in rates subject to this limitation, including special rates pursuant to factor (10), below:

(a) Require the Postal Service to provide public notice of the adjustment;

(b) Provide an opportunity for review by the Commission;

(c) Provide for the Commission to notify the Postal Service of any noncompliance of the adjustment with this annual limitation;

(d) Require the Postal Service to respond to the notice provided under the previous clause and describe the actions to be taken to comply with this annual limitation; and

5. Establish procedures to allow rate adjustments in excess of the annual limitation on an expedited basis due to either extraordinary or exceptional circumstances, provided:

(a) There is not sufficient unused rate authority as defined in 39 U.S.C. 3622(d)(2)(C); and

(b) The Commission determines, after notice and opportunity for a public hearing and comment, and within 90 days after any request by the Postal Service, that such adjustment is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

B. Objectives

The system for regulating rates and classes for market dominant products shall be designed to achieve the following objectives, each of which shall be applied in conjunction with the others:

1. To maximize incentives to reduce costs and increase efficiency;

2. To create predictability and stability in rates;

3. To maintain high quality service standards established under 39 U.S.C. 3691;

4. To allow the Postal Service pricing flexibility;

5. To assure adequate revenues, including retained earnings, to maintain financial stability;

6. To reduce the administrative burden and increase the transparency of the ratemaking process;

7. To enhance mail security and deter terrorism;

8. To establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail; and

9. To allocate the total institutional costs of the Postal Service appropriately between market dominant and competitive products.

C. Factors

In establishing the system for regulating rates and classes for market dominant products, the Commission shall take into account:

1. The value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

2. The requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

3. The effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

4. The available alternative means of sending and receiving letters and other mail matter at reasonable costs;

5. The degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

6. Simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

7. The importance of pricing flexibility to encourage increased mail volume and operational efficiency;

8. The relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

9. The importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

10. The desirability of special classifications for both postal users and the Postal Service in accordance with the policies of Title 39, including agreements between the Postal Service and postal users, when available on public and reasonable terms to similarly situated mailers, that

(a) Either improve the net financial position of the Postal Service through reducing Postal Service costs or increasing the overall contribution to the institutional costs of the Postal Service; or enhance the performance of mail preparation, processing, transportation, or other functions; and

(b) Do not cause unreasonable harm to the marketplace;

11. The educational, cultural, scientific, and informational value to the recipient of mail matter;

12. The need for the Postal Service to increase its efficiency and reduce its costs, including infrastructure costs, to help maintain high quality, affordable postal services;

13. The value to the Postal Service and postal users of promoting intelligent mail and of secure, sender-identified mail; and

14. The policies of this title as well as such other factors as the Commission determines appropriate.

D. Additional Consideration

The system for regulating rates and classes for market dominant products must enable the Commission to ensure that workshare discounts, as defined in 39 U.S.C. 3622(e)(1), do not exceed the cost that the Postal Service avoids as a result of workshare activity unless:

1. The discount is

(a) Associated with a new postal service, a change to an existing postal service, or with a new workshare initiative related to an existing postal service; and

(b) Necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time; or

2. The amount of the discount above costs avoided

(a) Is necessary to mitigate rate shock; and

(b) Will be phased out over time; or

3. The discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value; or

4. Reduction or elimination of the discount would impede the efficient operation of the Postal Service.

Application of these standards shall not require that a workshare discount be reduced or eliminated if the reduction or elimination of the discount would:

1. Lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced or eliminated; or

2. Result in a further increase in the rates paid by mailers not able to take advantage of the discount.

II. Provisions Applicable to Rates for Competitive Products

With regard to competitive products, regulations are to be established that:

1. Prohibit the subsidization of competitive products by market dominant products;

2. Ensure that each competitive product covers its costs attributable; and

3. Ensure that all competitive products collectively cover what the Commission determines to be an appropriate share of the institutional costs of the Postal Service.

Ordering Paragraphs

It is ordered:

1. Docket No. RM2007–1 is established for the purpose of receiving comments in advance of developing regulations effectuating a modern system of ratemaking.

2. Interested persons may submit comments no later than 60 days from the date of publication of this notice in the **Federal Register**.

3. Reply comments also may be filed no later than 90 days from the date of publication of this notice in the **Federal Register**.

4. Shelley S. Dreifuss, director of the Office of the Consumer Advocate, is designated to represent the interests of the general public in this docket.

5. The Secretary shall arrange for publication of this Notice in the **Federal Register**.

By the Commission.

Steven W. Williams,

Secretary.

[FR Doc. E7–1787 Filed 2–2–07; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2006–1013; FRL–8275–8]

Approval and Promulgation of Air Quality Implementation Plan; Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA invites public comment on its proposal to approve numerous revisions to the State of Alaska Implementation Plan. The Commissioner of the Alaska Department of Environmental Conservation (ADEC) submitted two requests to EPA dated May 6, 2005 and June 30, 2006 to revise certain sections of ADEC's air quality regulations. The revisions were submitted in accordance with the requirements of section 110 of the Clean Air Act (hereinafter the Act or CAA). Although EPA proposes to approve most of the submitted revisions, EPA proposes not to approve in this rulemaking a number of submitted rule provisions which are inappropriate for EPA approval.

DATES: Written comments must be received on or before March 7, 2007.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R10–OAR–2006–1013, by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-Mail: cunningham.roylene@epa.gov.*

C. *Mail:* Roylene A. Cunningham, EPA, Office of Air, Waste, and Toxics (AWT–107), 1200 Sixth Avenue, Seattle, Washington 98101.

D. *Hand Delivery:* EPA, Region 10 Mailroom, 9th Floor, 1200 Sixth Avenue, Seattle, Washington 98101. Attention: Roylene A. Cunningham, Office of Air Waste, and Toxics (AWT–107). Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2006–1013. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the State submittal are also available at the State of Alaska, Department of Environmental Conservation, 410 Willoughby Avenue, Ste 303, Juneau, Alaska 99811–1800.

FOR FURTHER INFORMATION CONTACT: Roylene A. Cunningham, (206) 553–0513, or by e-mail at *cunningham.roylene@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we'', ''us'', or ''our'' is used, we mean the EPA. Information is organized as follows:

Table of Contents

I. Background of Submittal
II. Summary of Action
A. Provisions Approved by EPA and Incorporated by Reference
1. Documents, Procedures, and Methods Adopted by Reference
2. Opacity Standards
3. Nonroad Engines
4. Ambient Analysis Methods
5. Owner-Requested Limits
6. Preapproved Emission Limits
7. Prevention of Significant Deterioration (PSD) Permits
8. Nonattainment Area Major Stationary Source Permits
9. Source-Specific Minor Permits
10. General Minor Permits
11. Conclusion
B. Provisions Approved by EPA into the SIP, But Not Incorporated by Reference
C. Provisions Not Approved by EPA
1. Provisions Not Related to Section 110 of the CAA
2. Provisions Related to Clean Units and the Pollution Control Projects Exclusion
3. Ambient Air Quality Analysis Methods (18 AAC 50.215(a)(3))
4. Enforceable Test Methods (18 AAC 50.220(c)(2))
5. Excess Emissions (18 AAC 50.240)
6. Source Test Deadline (18 AAC 50.345(l))
7. Standard Operating Permit Condition II (18 AAC 50.346(a))
8. Electronic Applications (18 AAC 50.542(b)(2))
9. Revisions to Minor Permits (18 AAC 50.546(b))
III. Requested Sections to be Removed from the SIP
IV. Geographic Scope of SIP Approval
V. Statutory and Executive Order Reviews

I. Background of Submittal

On May 6, 2005, the Commissioner of ADEC submitted a request to EPA to revise the Alaska SIP to include a completely revised version of the State of Alaska's Air Quality Regulation in 18 AAC 50. These changes became effective as a matter of State law on January 29, 2005.

On June 30, 2006 the Commissioner of ADEC submitted a request to EPA to revise the Alaska SIP to include additional revisions to 18 AAC 50. The revised portions reflected in this submittal include adoption by reference of updated EPA rules and changes to the portable oil and gas drill rig regulations. These changes became effective as a matter of State law on December 3, 2005. Included in the submittal was a request that EPA exclude from consideration for SIP approval the portions of 18 AAC 50 affected by the June 24, 2005, United States Court of Appeals, District of Columbia Circuit decision which vacated portions of EPA's new source review rules pertaining to clean units and pollution control projects.

II. Summary of Action

A. Provisions Approved by EPA and Incorporated by Reference

The following discussion provides an overview of ADEC's revised rules which EPA is proposing to incorporate by reference into the SIP, including a discussion of the key changes from the current SIP and EPA's evaluation of the changes. Note that any specific provisions or subparagraphs of ADEC's submittals which EPA is proposing not to approve are discussed in Section II.C. below.

The docket includes a technical support document which describes in more detail the substantive changes to ADEC's rules that have been submitted by Alaska as revisions to the SIP, EPA's evaluation of the changes, and the basis for EPA's action.

1. Documents, Procedures, and Methods Adopted by Reference

ADEC revised 18 AAC 50.035(a) and (b) in order to update the dates of their adoption by reference of Federal law, as well as State and Federal guidance documents. Paragraph (c) is a new provision which allows ADEC to use a test method other than one listed in 18 AAC 50.035(c) for a source-specific limit imposed in a permit. ADEC has clarified that this provision does not authorize ADEC to change a test method that is established in a SIP limit or a Federal standard. EPA is approving 18 AAC 50.035(c) with that understanding.

2. Opacity Standards

ADEC revised the opacity standard for most sources from a three minute aggregate to a six minute average. See 18 AAC 50.050 and 50.055. The numeric value of the standard remains 20%. EPA has previously approved the use of a six minute average opacity standard for several source categories in Alaska in order to coincide with opacity limits in the Federal NSPS. In these latest revisions, ADEC has amended 18 AAC 50.050(2) and 18 AAC 50.055 (1)–(3) to similarly adopt a six minute average for more source categories. As explained in more detail in the justification provided by ADEC, ADEC made this change in the form of the standard to address a defense to enforcement raised by industry with the three minute aggregate exception. ADEC further explained that, although there may be some limited situations in which the revised standard could be less stringent than the previous standard (when there is a plume that is both high in opacity and intermittent), in the large majority of cases, the new standard is more stringent. In the one circumstance where ADEC expects that the three minute aggregate could be more stringent than the six minute average—soot blowing at coal fired power plants—ADEC has retained the opacity limit as an aggregate standard. Based on the information provided by ADEC, EPA concludes that changing the 20% opacity limit from a three minute exception to a six minute average in 18 AAC 50.050(2) and 18 AAC 50.055 (1)–(3) will continue to provide for attainment and maintenance of the NAAQS and other CAA standards and is thus approvable.

3. Nonroad Engines

ADEC added 18 AAC 50.100 in January 1997 to address a change in the 1990 CAA by making clear that actual and potential emissions from nonroad engines are not considered when determining whether a stationary source is subject to construction or operating permit programs in Alaska.

4. Ambient Analysis Methods

Section 50.215, renumbered from 18 AAC 50.510(a), sets forth requirements for air quality modeling and analysis. Paragraph (c) allows substitution or modification of an air quality model, provided the source performs and submits a comparative analysis using a protocol developed using a specified procedure, obtains ADEC approval of the comparative protocol, and, in the case of air quality analysis required by 18 AAC 50.306 (PSD), obtains EPA and ADEC approval of the substituted or modified model. Federal law, however, requires written approval from EPA for any substitution or modification of a model used for minor and major new source review, including major new source review in nonattainment areas (NNSR). See 40 CFR 51.160(f). ADEC has advised EPA that it erred in limiting the cross-reference in 18 AAC 50.215(c)(3) to 18 AAC 50.306 (PSD) and that ADEC fully intended to require and intends to obtain EPA approval of a model substitution or modification for minor NSR (18 AAC 50.502–560) and major NNSR (18 AAC 50.311). ADEC has provided written assurance that ADEC will not allow a model substitution or modification if an ambient air quality analysis is required by minor NSR (18 AAC 50.502–560) or major NNSR (18 AAC 50.311) without prior written approval from EPA and that it will correct this error in their next rulemaking. EPA is approving this provision on that basis.

5. Owner-Requested Limits

ADEC proposes to include 18 AAC 50.225 in the SIP as a mechanism to establish source-specific federally-enforceable limitations that restrict a source's allowable emissions or potential to emit air pollutants. EPA has issued criteria for determining when emission limits contained in non-title V operating permits and similar mechanisms are federally enforceable. See 54 FR 27274 (June 28, 1989). The criteria include approval of the State mechanism into the SIP, a legal obligation that the permittee adhere to the limits and other requirements, that the limits and other requirements be at least as stringent as any other applicable SIP or federally enforceable requirements, that the limits and other requirements be permanent, quantifiable, and otherwise enforceable as a practical matter, and that the limits and other requirements be issued subject to public participation.

Owner-requested limits issued under 18 AAC 50.225 are issued only after notice and opportunity for public comment and are contained in a letter approval. Each approval issued to a source must include specific monitoring, recordkeeping, and reporting requirements to ensure compliance with the approved limitations and specifically requires a statement that the owner/operator agrees to be bound by the terms of the approval. The owner/operator can request that the limit be revoked but only after the owner/operator obtains any permits that were avoided by virtue of the owner-requested limit. EPA finds that 18 AAC 50.225 is consistent with EPA guidance regarding Federally-enforceable operating limits and proposes to approve this section.

6. Preapproved Emission Limits

ADEC proposes to include 18 AAC 50.230 [except subparagraph (d)], an exclusionary rule that sets preapproved limits for NO_X emissions from diesel engines. EPA has recognized that, for certain classes of sources, such as fuel burning equipment, it is possible for States to establish enforceable emission limits that serve to limit potential to emit through exclusionary rules that apply to certain source categories. *See* Memorandum from JD. Kent Berry, Acting Director, Air Quality Management Division, Office of Air Quality Planning and Standards (OAQPS) entitled ''Guidance for State Rules for Optional Federally-Enforceable Emissions Limits Based on Volatile Organic Compound Use,'' dated October 15, 1993; Memorandum from John Seitz, Director, OAQPS entitled ''Approaches to Creating Federally-Enforceable Emission Limits,'' dated November 3, 1993; Memorandum from John Seitz, Director, OAQPS, entitled

''Potential To Emit Guidance for Specific Source Categories,'' dated April 14, 1998. To be approvable, an exclusionary rule must be technically justified, require that the owner or operator specifically apply for coverage under the rule, require the applicant to comply with the limit in the rule, and provide that a violation of the rule is a violation of the SIP.

The preapproved limit for NO_X emissions from diesel engines in ADEC's exclusionary rule is based on the amount of diesel fuel used by a source during the year. ADEC has demonstrated that a facility that limits their diesel fuel consumption to below 330,900 gallons per year limits their potential to emit NO_X to below 100 tons per year. To operate under the preapproved limit, a source must submit to ADEC a request to operate under a specific limit, and must provide the information required for that limit. After this notification, each source must follow specific monitoring, recordkeeping, and reporting requirements to ensure compliance with the limit. EPA has determined that 18 AAC 50.230 [except subparagraph (d)] is consistent with EPA guidance for exclusionary rules.

7. Prevention of Significant Deterioration (PSD) Permits

Overview of Major New Source Review Program

Parts C and D of title I of the CAA, 42 U.S.C. 7470–7515, set forth preconstruction review and permitting programs applicable to new and modified stationary sources of air pollutants regulated under the CAA, known as ''major New Source Review'' or ''major NSR.'' The major NSR programs of the CAA include a combination of air quality planning and air pollution control technology program requirements. States adopt major NSR programs as part of their SIP.

Part C of title I of the CAA, 42 U.S.C. 7470–7492, is the ''Prevention of Significant Deterioration'' or ''PSD'' program, which applies in areas that meet the NAAQS—''attainment'' areas—as well as in areas for which there is insufficient information to determine whether the area meets the NAAQS—''unclassifiable'' areas. Part D of title I of the CAA, 42 U.S.C. 7501–7515, is called the ''Nonattainment New Source Review'' or the ''NNSR'' program, which applies in areas that are not in attainment of the NAAQS—''nonattainment areas.'' EPA regulations implementing these programs are contained in 40 CFR 51.165, 51.166, 52.21, 52.24, and part 51, appendix S.

On December 31, 2002, EPA published final rule changes to the PSD and NNSR programs. 67 FR 80186. On November 7, 2003, EPA published a notice of final action on the reconsideration of the December 31, 2002 final rule changes. 68 FR 63021. In that November 7th final action, EPA added the definition of ''replacement unit,'' and clarified an issue regarding plantwide applicability limitations (PALs). The December 31, 2002 and the November 7, 2003, final actions, are collectively referred to as the ''2002 NSR Reform Rules.''

The 2002 NSR Reform Rules made changes to five areas of the NSR programs. In summary, the 2002 Rules: (1) Provide a new method for determining baseline actual emissions; (2) adopt an actual-to-projected-actual methodology for determining whether a major modification has occurred; (3) allow major stationary sources to comply with plant-wide applicability limits to avoid having a significant emissions increase that triggers the requirements of the major NSR program; (4) provide a new applicability provision for emissions units that are designated clean units; and (5) exclude pollution control projects from the definition of ''physical change or change in the method of operation.''

After the 2002 NSR Reform Rules were finalized and effective (March 3, 2003), various petitioners challenged numerous aspects of the 2002 NSR Reform Rules, along with portions of EPA's 1980 NSR Rules (45 FR 5276, August 7, 1980). On June 24, 2005, the DC Circuit Court issued a decision on the challenges to the 2002 NSR Reform Rules. See *New York* v. *United States*, 413 F.3d 3 (DC Cir. 2005). In summary, the DC Circuit Court vacated portions of the 2002 NSR Reform Rules pertaining to clean units and pollution control projects, remanded a portion of the rules regarding recordkeeping (40 CFR 52.21(r)(6) and 40 CFR 51.166(r)(6)), and either upheld or did not comment on the other provisions included as part of the 2002 NSR Reform Rules. EPA has not yet responded to the Court's remand regarding the recordkeeping provisions.

The 2002 NSR Reform Rules require that State agencies adopt and submit revisions to their SIP permitting programs implementing the minimum program elements of the 2002 NSR Reform Rules no later than January 2, 2006.

Alaska's PSD Submittal

Alaska's PSD program was originally approved into the SIP by EPA on July 5, 1983, and has been revised several times. Newly revised 18 AAC 50.040(h) and 18 AAC 50.306 implement ADEC's current PSD program. ADEC revised their PSD rules to essentially incorporate by reference the PSD rules in 40 CFR 52.21, including the applicable provisions of the 2002 NSR Reform Rules, with a few exceptions. In general, ADEC chose to incorporate by reference the Federal PSD rules in 40 CFR 52.21 rather than the comparable provisions in 40 CFR 51.166, which set forth what is required in a State's plan, because 40 CFR 52.21 is written to directly state the requirements of an owner or operator.

In some cases, ADEC did adopt provisions of 40 CFR 51.166 rather than the comparable provisions of 40 CFR 52.21 because 40 CFR 51.166 was a better fit for a SIP-approved PSD program. For example, ADEC adopted 51.166(q)(2) to describe the public participation procedures for PSD permits. The comparable provision in 40 CFR 52.21 refers to a large set of Federal administrative procedures in 40 CFR 124, which applies to water and other permits, and would be very cumbersome to try to adopt for Alaska's purpose. ADEC also adopted 40 CFR 51.166(f), Exclusions from Increment Consumption, because these exclusions are not provided by 40 CFR 52.21, but they are allowed in a SIP-approved PSD program.

ADEC also made regulatory changes to clarify how certain provisions of 40 CFR 52.21 would be implemented by ADEC. For example, ADEC added text to 18 AAC 50.306 to clarify the term ''administrator'' should be read to mean the department in certain instances. ADEC also added provisions for permit content with respect to monitoring, recordkeeping, or reporting requirements. The language is similar to that in ADEC's existing construction permit program and is intended to allow ADEC to put in conditions when they are necessary so that the applicant and ADEC can know whether operations comply with standards.

EPA is approving 18 AAC 50.040(h) and 18 AAC 50.306 as meeting the requirements for SIP-approved PSD programs in 40 CFR 51.166. ADEC's revised rules address baseline actual emissions, actual-to-projected-actual applicability tests, and PALs and other currently applicable provisions of the 2002 NSR Reform Rules. ADEC has not submitted for SIP approval portions of the PSD rules that were recently vacated by the DC Circuit Court, including the clean unit provisions and the pollution control projects exclusion. As noted earlier, EPA has not yet responded to the DC Circuit Court's remand of the recordkeeping provisions of EPA's 2002

NSR Reform Rules. Alaska's rule contains recordkeeping requirements that are essentially the same as the remanded Federal rule. While final action by EPA with regard to the remand may require EPA to take further action on this portion of Alaska's rules, at this time, the rules are the same as existing Federal law.

8. Nonattainment Area Major Stationary Source Permits

Alaska's major NNSR program was originally approved into the SIP by EPA on July 5, 1983, and has been revised several times. Newly revised 18 AAC 40.040(i) and 18 AAC 50.311 implement the major NNSR program in Alaska. ADEC revised their major NNSR program to essentially incorporate by reference the provisions set forth in 40 CFR 51.165, including the 2002 NSR Reform Rules that were not vacated by the Court. Portions of 40 CFR 51.165 simply refers to relevant provisions in sections 172 and 173 of the CAA, including offsetting emissions and lowest achievable emission rates. Rather than adopting the language in the CAA statute by reference, 18 AAC 50.311 includes the text of the relevant statutory language.

Similar to the PSD program in 18 AAC 50.306, ADEC also added provisions for permit content with respect to monitoring, recordkeeping, or reporting requirements. The language is similar to that in ADEC's existing construction permit program and is intended to allow ADEC to put in conditions when they are necessary so that the applicant and ADEC can know whether operations comply with standards.

EPA is approving 18 AAC 40.040(i) and 18 AAC 50.311 as meeting the requirements for SIP-approved major NNSR programs in 40 CFR 51.165 and 40 CFR part 51, appendix S. ADEC's revised rules address baseline actual emissions, actual-to-projected-actual applicability tests, and PALs and other currently applicable provisions of the 2002 NSR Reform Rules. ADEC specifically did not submit portions of the NNSR rules that were recently vacated by the DC Circuit Court, including the clean unit provisions and the pollution control projects exclusion. As noted earlier, EPA has not yet responded to the DC Circuit Court's remand of the recordkeeping provisions of EPA's 2002 NSR Reform Rules. Alaska's rule contains recordkeeping requirements that are essentially the same as the remanded Federal rule. While final action by EPA with regard to the remand may require EPA to take further action on this portion of Alaska's rules, at this time the rules are the same as existing Federal law.

9. Source-Specific Minor Permits

EPA regulations require all SIPs to contain legally enforceable procedures to ensure that construction or modification of a stationary source will not cause a violation of a NAAQS or any applicable portions of the control strategy. 40 CFR 51.160(a). For major stationary sources and major modifications to major stationary sources, the PSD and major NNSR programs satisfy this requirement. States are also required to have new source review programs for minor sources meeting the requirements of 40 CFR 51.160–51.164.

Alaska's minor NSR program was originally approved into the SIP by EPA on July 5, 1983, and has been revised several times. In the SIP submission before EPA, ADEC has substantially revised its minor NSR program. Under ADEC's revised program, ADEC has expanded the categories of minor sources that must obtain a permit prior to construction or modification. Section 50.502 specifies source categories and size thresholds that need a permit. Certain stationary sources—regardless of emission rate—must obtain a minor permit before construction or relocation and, if the source is not required to obtain a title V permit, before operation. In addition, a minor permit is required for construction of a new stationary source with a potential to emit greater than the following size thresholds: 15 TPY PM–10; 40 TPY of nitrogen oxides (NO_X); 40 TPY of sulfur dioxides (SO_X); 0.6 TPY of lead; 100 TPY of carbon monoxide (CO) within 10 kilometers of a nonattainment area. Other provisions govern when a source needs a minor permit for construction or relocation of a Portable Oil and Gas Operation or an emission unit with a rated capacity of 10 million BTU or more per hour in a sulfur dioxide special protection area.

ADEC has also established thresholds for determining when a source needs a minor permit before a modification. A minor permit is required prior to a modification if (1) the stationary source already has a potential to emit more than the emission thresholds for construction of new minor sources requiring permits, and (2) the modification would cause an increase greater than 10 tpy of PM–10, 10 tpy of NO_X, 10 tpy of SO_X, or 100 tpy of CO. In applying the modification provisions, the owner or operator may choose either a potential emissions or actual emission test, with certain limitations. Finally, Section 50.508 allows ADEC to issue a minor permit if requested by the owner or operator under certain circumstances.

Section 50.542 sets forth the procedures for permit review and issuance. ADEC now has two administrative procedures for issuing source-specific minor permits—a fast track procedure and a procedure that has a full 30-day public comment period. For both procedures, ADEC's revised rules change the method of public notice. Instead of publishing the notice in a newspaper, ADEC now posts the notice on the State ''Online Public Notice System'' website. ADEC still sends the notice by mail or e-mail to anyone who requests to be on the State's distribution list. EPA regulations require that public notice of minor NSR permits be given by prominent advertisement in the area affected by the source, and do not require that public notice be given in a newspaper. See 40 CFR 51.161(b)(3).

Under the fast track procedures of 18 AAC 50.542(b), ADEC gives the public 15 days to request a 30-day public comment period for certain types of permits (i.e., 18 AAC 50.502) that meet specific requirements as defined in the rule. The department issues the permit within 30 days of receiving a complete application unless someone requests a public comment period or ADEC determines the project would be predicted to violate an ambient air quality standard. Other types of permits specified in the rule have a 30-day public comment period, even if no one requests one.

Section 50.542 also contains criteria for approval and denial of minor permits. Importantly, ADEC is required to deny an application for a minor permit if ADEC determines construction or operation of the source would violate an emission limit in ADEC's rules or a NAAQS. The rule contains additional criteria for approval and denial of minor permits for sources in certain locations (e.g., Port of Anchorage) and certain types of minor permits (e.g., PAL permit, owner requested limit).

Section 50.544 sets forth the content requirements for minor permits, including identifying information, conditions necessary to ensure compliance with any requirement in Alaska's statute or regulations for stationary sources classified under 18 AAC 50.502, and conditions necessary to ensure compliance with the NAAQS and certain other sections for stationary sources requiring minor permits due to the amount of their emissions. This section also requires an owner or operator to provide a periodic affirmation as to whether their original application and minor permit accurately

describe their stationary source and whether any changes may have been made that would trigger the requirement for a new permit.

EPA has reviewed 18 AAC 50.502 to 50.546, ADEC's provisions for the issuance of minor permits, and finds them to be consistent with the requirements for minor NSR permits in 40 CFR 50.160–50.164.

10. General Minor Permits

18 AAC 50.560 authorizes ADEC to issue general minor permits to allow the construction or operation of a category of stationary sources that involve the same or similar types of operation, involve the same type of emissions, and are subject to similar air quality control requirements. In issuing a general minor permit, ADEC will evaluate what permit conditions are necessary to assure compliance with each ambient standard or control strategy for that category of stationary source. An owner or operator would then have the choice of obtaining a source-specific permit or applying for coverage under the general minor permit. See 18 AAC 50.502(d). A general minor permit is subject to public notice and comment when initially issued by ADEC, but not when an individual source applies for coverage. The rule authorizes ADEC to issue general minor permits that require a source applying for coverage to receive specific approval from ADEC before being authorized to construct or operate under the general permit, as well as general minor permits that authorize a source to construct or operate upon ADEC's receipt of an application for coverage. The general minor permit will specify whether the source must wait for ADEC approval before constructing or operating under the general minor permit.

ADEC will issue an application or notification form with each general minor permit, which will specify the information an applicant must provide to be covered under the general minor permit. This information must include identifying information, information necessary to show the stationary source qualifies for coverage under the general permit, identification of all equipment covered by the general minor permit, and a certification by the applicant that the stationary source is capable of complying with all permit requirements.

The rule also specifies the content of general minor permits. Importantly, general minor permits must meet the same permit content requirements of minor permits under 18 AAC 50.544, including terms and conditions to ensure that stationary sources constructing and operating under the general minor permit will not cause or contribute to a violation of the NAAQS. General minor permits can accommodate portable sources, but permittees must notify ADEC of any change to a location not identified in the permit application.

EPA has reviewed 18 AAC 50.560, ADEC's provision for the issuance of general minor permits, and finds it to be consistent with the requirements for minor NSR permits in 40 CFR 50.160–50.164.

11. Conclusion

As described in more detail above and in the technical support document, EPA has determined that the following sections of Alaska's regulations are consistent with the requirements of title I of the CAA and proposes to approve them as part of the SIP and incorporate them by reference into Federal law:

18 AAC 50.080 Ice Fog Standards; State effective January 18, 1997;

18 AAC 50.025 Visibility and Other Special Protection Areas; 18 AAC 50.070 Marine Vessel Visible Emission Standards, State effective June 21, 1998;

18 AAC 50.050 Incinerator Emission Standards, State effective May 3, 2002;

18 AAC 50.005 Purpose of Chapter; 18 AAC 50.010 Ambient Air Quality Standards [except (7) and (8)]; 18 AAC 50.015 Air Quality Designations, Classifications, and Control Regions; 18 AAC 50.020 Baseline Dates and Maximum Allowable Increases, 18 AAC 50.045 Prohibitions; 18 AAC 50.055 Industrial Processes and Fuel-Burning Equipment [except (d)(2)(B)]; 18 AAC 50.100 Nonroad Engines; 18 AAC 50.200 Information Requests; 18 AAC 50.201 Ambient Air Quality Investigation; 18 AAC 50.205 Certification; 18 AAC 50.215 Ambient Air Quality Analysis Methods [except (a)(3)]; 18 AAC 50.220 Enforceable Test Methods [except (c)(2)]; 18 AAC 50.245 Air Episodes and Advisories; 18 AAC 50.250 Procedures and Criteria for Revising Air Quality Classifications; 18 AAC 50.301 Permit Continuity; 18 AAC 50.302 Construction Permits; 18 AAC 50.306 Prevention of Significant Deterioration (PSD) Permits [except (b)(2) and (b)(3)]; 18 AAC 50.311 Nonattainment Area Major Stationary Source Permits; 18 AAC 50.345 Construction and Operating Permits: Standard Permit Conditions [except (b), (c)(3), and (l)]; 18 AAC 50.508 Minor Permits Requested by the Owner or Operator [except (1) and (2)]; 18 AAC 50.546 Minor Permits: Revisions [except (b)]; 18 AAC 50.560 General Minor Permits; 18 AAC 50.900 Small Business, State effective October 1, 2004;

18 AAC 50.542 Minor Permit: Review and Issuance [except (b)(2), (f)(4), (f)(5), and (g)(1) but only with respect to clean units and pollution control projects], State effective December 1, 2004;

18 AAC 50.225 Owner-Requested Limits; 18 AAC 50.230 Preapproved Emission Limits [except (d)]; 18 AAC 50.544 Minor Permits: Content [except (e)], State effective January 29, 2005;

18 AAC 50.035 Documents, Procedures, and Methods Adopted By Reference [except (b)(4)]; 18 AAC 50.040 Federal Standards Adopted by Reference [except (a), (b), (c), (d), (e), (g), (h)(17), (h)(18), (h)(19), (i)(7), (i)(8), (i)(9), and (j)]; 18 AAC 50.502 Minor Permits for Air Quality Protection [except (g)(1) and (g)(2)]; 18 AAC 50.540 Minor Permit: Application [except (f) and (g)];18 AAC 50.990 Definitions [except (21), and (77)], State effective December 3, 2005.

B. Provisions Approved by EPA Into the SIP, But Not Incorporated by Reference

EPA is proposing to approve the following section as part of the SIP, but not to incorporate it by reference into Federal law: 18 AAC 50.030 State Air Quality Control Plan, State effective October 1, 2004. This provision does not regulate air emissions, but rather, describes general authorities such as procedural and enforcement authorities. Incorporation by reference of such provisions into Federal law is unnecessary and could potentially conflict with EPA's independent authorities. Therefore, EPA is proposing to not incorporate by reference 18 AAC 50.030 into the SIP and to remove the previous version of this regulation from Alaska's incorporation by reference section of the Alaska SIP, as follows: 18 AAC 50.030 State Air Quality Control Plan, State effective September 21, 2001.

C. Provisions Not Approved by EPA

EPA is proposing not to approve certain provisions of ADEC's regulations, either because EPA believes such provisions are inconsistent with the requirements of the CAA or because ADEC has requested EPA not to approve such provisions into the SIP.

1. Provisions Not Related to Section 110 of the CAA

EPA is not approving the following provisions because they are not related to the criteria pollutants regulated under section 110 of the CAA: 18 AAC 50.010(7) and (8); 18 AAC 50.035(b)(4); 18 AAC 50.040(a), (b), (c), (d), (e), (g), and (j); 18 AAC 50.055(d)(2)(B); 18 AAC 50.316; and 18 AAC 50.345(b) and (c)(3).

2. Provisions Related to Clean Units and the Pollution Control Projects Exclusion

At ADEC's request, we are not incorporating or approving into the SIP portions of the Federal 2002 Major NSR Reform Rules that were recently vacated by the DC Circuit Court relating to the clean unit provisions and the pollution control projects exclusion. These provisions include: 18 AAC 50.040(h)(17), (h)(18), (h)(19), (i)(7), (i)(8), and (i)(9); 18 AAC 50.306 (b)(2) and (b)(3); 18 AAC 50.502(g)(1) and (g)(2); 18 AAC 50.508(1) and (2); 18 AAC 50.509; 18 AAC 50.540(f) and (g); 18 AAC 50.542(f)(4), (f)(5), and, with respect to the reference to clean units and pollution control projects only, (g)(1); and 18 AAC 50.544(e); and 18 AAC 50.990(21) and (77).

3. Ambient Air Quality Analysis Methods (18 AAC 50.215(a)(3))

18 AAC 50.215 sets forth requirements for air quality monitoring and analysis. Paragraphs (a)(1) and (a)(2) specify the procedures for obtaining air monitoring data, but paragraph (a)(3) authorizes ADEC to approve any alternative method that ADEC determines is ''representative, accurate, verifiable, capable of replication.'' In essence, this paragraph allows ADEC to modify requirements relied on to attain and maintain the NAAQS without going through a SIP revision. As such, it is not approvable.

Section 110(i) of the CAA specifically precludes States from changing the requirements of the SIP except through SIP revisions approved by EPA. SIP revisions will be approved by EPA only if they meet all requirements of section 110 of the CAA and the implementing regulations at 40 CFR part 51. See CAA section 110(l); 40 CFR 51.104. Section 51.104(d) specifically states that in order for a variance to be considered for approval as a SIP revision, the State must submit it in accordance with the requirements of 40 CFR 51.104, which includes the public notice, comment and hearing provisions of 40 CFR 51.102.

The SIP revision requirements may be satisfied if the director's discretion is constrained by sufficiently specific, objective, and replicable criteria to determine if the alternative method will, in fact, be at least as effective as the required methods in terms of emission rates and ambient impacts. In this case, although the rule states that the alternative must be ''representative, accurate, verifiable, capable of replication,'' the rule does not contain procedures for ensuring that is the case. Therefore, it is not appropriate for EPA to approve this provision into the SIP.

4. Enforceable Test Methods (18 AAC 50.220(c)(2))

Paragraph 50.220(c)(1) specifies reference test methods to be used in source tests to determine compliance with applicable requirements. Paragraph (c)(2) authorizes ADEC to approve the use of an alternative method using the procedure specified in 40 CFR part 63, appendix A, method 301. In essence, paragraph (c)(2) authorizes ADEC to issue variances from regulatory requirements, including SIP, NSPS, and NESHAP requirements. EPA approved this provision into the SIP on November 18, 1998 [63 FR 63983]. ADEC made minor changes to 18 AAC 50.220 and has submitted the entire provision for inclusion in the SIP.

EPA believes that it erred when it approved this subparagraph as part of the SIP. As an initial matter, ADEC does not have authority to approve alternatives to NSPS and NESHAP standards except to the extent EPA has delegated that authority to ADEC. EPA does not delegate to States authority to approve ''major changes'' to test methods for NSPS and NESHAP standards. In addition, as discussed above, section 110(i) of the CAA specifically precludes States from changing the requirements of the SIP except through SIP revisions approved by EPA, and SIP revisions will be approved by EPA only if they meet all requirements of section 110 of the CAA and the implementing regulations at 40 CFR part 51. See CAA section 110(l); 40 CFR 51.104. Section 51.104(d) specifically states that in order for a variance to be considered for approval as a SIP revision, the State must submit it in accordance with the requirements of 40 CFR 51.104, which includes the public notice, comment and hearing provisions of 40 CFR 51.102.

Paragraph (c)(2) does not meet all of the requirements of section 110 of the CAA, such as ensuring attainment and maintenance of the NAAQS. As discussed above, SIP revision requirements may be satisfied if the director's discretion is constrained by sufficiently specific, objective, and replicable criteria to determine if the alternative method will, in fact, be at least as effective as the required methods in terms of emission rates and ambient impacts. In this case, although paragraph (c)(2) requires that ADEC use the procedure in 40 CFR part 63, appendix A, method 301 in evaluating whether to approve an alternative method, EPA does not believe that the procedures in method 301 are sufficiently replicable so as to adequately constrain ADEC's discretion. In addition, there is nothing in this provision that would require alternatives to test methods required in a permit to be approved through appropriate revision procedures. For these reasons, it is not appropriate for EPA to approve this provision into the SIP.

Section 110(k)(6) of the CAA authorizes EPA, upon a determination that EPA's action approving, disapproving or promulgating any State implementation plan or plan revision (or any part thereof) was in error, to revise such action as appropriate in the same manner as the approval, disapproval or promulgation. In making such a correction, EPA must provide such determination and the basis therefore to the State and the public. EPA is by this proposal notifying ADEC and the public that EPA is removing 18 AAC 50.220(c)(2) from the SIP and from incorporation by reference into Federal law. It is important to emphasize that if ADEC approves the use of alternative methods in reliance on 18 AAC 50.220(c)(2) as an alternative to an ADEC regulation or permit that has been approved as part of the SIP, EPA is not precluded from enforcing the Federally-approved SIP limit against the source. The granting of an alternative method of compliance by ADEC to a SIP requirement does not change the Federally-enforceable SIP requirement for that source unless and until the alternative has been approved by EPA.

5. Excess Emissions (18 AAC 50.240)

EPA's interpretation of the CAA for State excess emission provisions is set forth in, among other documents, Memorandum from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Monitoring, and Robert Perciasepe, Assistant Administrator for Air and Radiation, to the Regional Administrators, entitled ''State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown'' (September 20, 1999) (1999 Excess Emissions Policy). That policy indicates that because excess emissions might aggravate air quality so as to prevent attainment and maintenance of the NAAQS or jeopardize the PSD increments, all periods of excess emissions are considered violations of applicable emission limitations. However, the 1999 Excess Emission Policy recognizes that in certain circumstances, States and EPA have enforcement discretion to refrain from taking enforcement action for excess emissions. In addition, the policy also indicates that States can

include in their SIPs provisions that would, in the context of an enforcement action for excess emissions, excuse a source from penalties (but not injunctive relief) if the source can demonstrate it meets certain objective criteria. This is in essence a limited affirmative defense to a penalty action. Finally, the Policy states that EPA does not intend to approve SIP revisions that would recognize a State director's decision to bar EPA's or citizen's ability to enforce applicable requirements.

Although ADEC has made only minor changes to 18 AAC 50.240 since it was approved by EPA in 1998, approval of the minor changes could be interpreted to imply that EPA believed 18 AAC 50.240 was consistent with the requirements of the CAA. EPA has reviewed 18 AAC 50.240, however, and does not believe it is consistent with EPA's interpretation of the CAA regarding the types of affirmative defense provisions we can approve into SIPS for several reasons. First, an affirmative defense to a penalty action is not appropriate where a single source or small group of sources has the potential to cause an exceedance of the NAAQS or PSD increments. See 1999 Excess Emissions Policy, pp. 2–3, Attachment pp. 3 and 5. The Alaska regulation does not contain provisions to address this criterion. Second, an affirmative defense for excess emissions due to certain unavoidable events cannot extend to State law provisions that derive from Federally promulgated performance standards or emission limits, such as NSPS or NESHAP standards and does not extend to PSD permits unless the excess emissions were accounted for in the modeling and in the BACT determination. Alaska's excess emission rule does not appear to be so limited in scope. Third, Alaska's excess emissions rule does not sufficiently address all of the criteria for ensuring that excess emissions due to startup, shutdown, and malfunction are truly unavoidable and limited to the maximum extent possible in duration and impact on air quality. See 1999 Excess Emissions Policy, Attachment pp. 3–6. Although a State need not adopt the precise language of the 1999 Excess Emissions Policy, State excess emission provisions must address the essential elements of the criteria in the policy to be consistent with the CAA. Fourth, 18 AAC 50.240(e) provides an affirmative defense for excess emissions due to scheduled maintenance provided certain criteria are met. This is inappropriate under the CAA because sources should be able to schedule maintenance that might otherwise lead to excess emissions to coincide with maintenance of production equipment or other facility shutdowns. In this regard, it is important to note that the 1999 Excess Emissions Policy does not discuss allowing an affirmative defense for excess emissions during maintenance activities. This omission was intentional and based on EPA's interpretation of the CAA that any excess emissions during maintenance activities should be addressed only through the exercise of enforcement discretion and not through the provision of an affirmative defense to penalties. Finally, 18 AAC 50.240 does not make clear that ADEC's decision that the criteria for obtaining the affirmative defense from penalty are met is not binding on EPA or citizens. See 1999 Excess Emission Policy, p. 3, Attachment p. 2. In summary, although ADEC has made only minor changes to 18 AAC 50.240, EPA is not approving the changes because to do so would imply that EPA believes that 18 AAC 50.240 meets CAA requirements for SIP excess emission provisions.

6. Source Test Deadline (18 AAC 50.345(l))

Paragraph (l) is a standard permit condition that gives ADEC discretion to approve a request from the permittee to delay a source test deadline established by ADEC. Importantly, this provision does not give ADEC authority to extend source test deadlines established in requirements promulgated by EPA, such as NSPS or NESHAPS. In addition, EPA is not aware of any Alaska SIP provisions that impose a requirement to conduct a source test within a specified period of time so this provision appears to be limited to source test deadlines established in permits issued by ADEC. EPA does not believe it can approve this provision, however, because it would give ADEC unbounded discretion to change the source testing requirements of a federally-enforceable permit without revising the permit

7. Standard Operating Permit Condition II (18 AAC 50.346(a))

This paragraph incorporates Standard Operating Permit Condition II, which contains standard monitoring conditions for 18 AAC 50.110 Air Pollution Prohibited, a rule prohibiting emissions detrimental to human health or welfare, animal or plant life, or property, or which would unreasonably interfere with the enjoyment of life or property. EPA does not believe it is appropriate to approve 18 AAC 50.346(a) into the SIP because it only requires corrective action after the permittee or ADEC determines a violation has occurred. EPA does not believe requiring corrective action after a violation has occurred can be construed as monitoring that reasonably assures compliance with the underlying applicable requirement. To the extent a SIP requirement includes monitoring, the monitoring must be sufficient to reasonably assure compliance with the requirement.

8. Electronic Applications (18 AAC 50.542(b)(2))

This subparagraph allows ADEC to require the owner/operator to submit their permit applications online. ADEC did not submit the appropriate documentation for us to evaluate the approvability of Alaska's Online System with respect to EPA's Cross-Media Electronic Reporting Rule (CROMERR). See 70 FR 59848 (October 13, 2005). Therefore, EPA is not approving paragraph (b)(2) to allow for electronic submissions.

9. Revisions to Minor Permits (18 AAC 50.546(b))

This subparagraph authorizes ADEC to revise ''non-substantive elements of a minor permit without further administrative procedures.'' The regulation, however, does not describe what type of changes will be considered ''non-substantive.'' Although it may be appropriate to allow some class of permit changes to be made administratively, this provision does not adequately describe the class of changes. Therefore, EPA does not believe this provision is sufficiently enforceable to meet the basic enforceability requirements for SIPs.

III. Requested Sections to be Removed from the SIP

Alaska has requested that EPA remove certain provisions from the SIP because they have been previously repealed by ADEC or because they are not required elements of a SIP under title I of the CAA.

The following sections have been repealed by ADEC and the substantive requirements of these sections have been included in new and revised sections, which EPA is proposing to approve: 18 AAC 50.090 Ice Fog Limitations, State effective May 26, 1972; 18 AAC 50.300 Permit to Operate and 18 AAC 50.400 Application Review & Issuance of Permit to Operate, State effective July 21, 1991 and April 23, 1994; 18 AAC 50.520 Emissions and Ambient Monitoring, State effective July 21, 1991; 18 AAC 50.530 Circumvention, State effective June 7, 1987; 18 AAC 50.310 Revocation or Suspension of Permit, State effective May 4, 1980; 18 AAC 50.600

Reclassification Procedures & Criteria, State effective November 1, 1982; 18 AAC 50.620 State Air Quality Control Plan, State effective January 4, 1995; and 18 AAC 50.900 Definitions, State effective July 21, 1991 and January 4, 1995.

Removal of these now-repealed sections from the SIP does not make the SIP less stringent because the substantive provisions of these sections are included elsewhere in ADEC's regulations and are being submitted for inclusion into the SIP. Therefore, EPA is approving removal of these sections from the SIP.

ADEC has also requested that EPA remove the following fee-related provisions from the SIP: 18 AAC 50.400 Permit Administration Fees, 18 AAC 50.420 Billing Procedures, and 18 AAC 50.430 Appeal Procedures, State effective January 18, 1997. These provisions establish fees for issuance of permits and permit-related actions. State fee provisions that are not economic incentive programs and are not designed to replace or relax a SIP emission limit are generally not appropriate for inclusion into the SIP. While it is appropriate for States to implement fee provisions, for example, to recover costs for issuing permits, it is generally not appropriate to make State fee collection federally enforceable. Therefore, EPA is removing from the SIP 18 AAC 50.400 Permit Administration Fees, 18 AAC 50.420 Billing Procedures, and 18 AAC 50.430 Appeal Procedures.

IV. Geographic Scope of SIP Approval

EPA's approval of the SIP does not extend to sources or activities located in Indian Country, as defined in 18 U.S.C. 1151. EPA will continue to implement the CAA in Indian Country in Alaska because ADEC has not adequately demonstrated authority over sources and activities located within the exterior boundaries of the Annette Island Reserve and other areas of Indian Country in Alaska.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

The rule also does not have Tribal implications because it will not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a State rule implementing a Federal Requirement, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 26, 2007.

Julie Hagensen,

Acting Regional Administrator, Region 10.

[FR Doc. E7–1802 Filed 2–2–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7704]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified

BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This proposed 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 proposed rule involves no policies that have federalism implications under Executive Order 13132.

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[Amended]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. * Elevation in feet (NGVD) + Elevation in feet (NAVD)	
				Existing	Modified
City of Anthon, Iowa					
Iowa	City of Anthon/ Woodbury County.	Little Sioux River	At southern corporate limit, approximately 5,000 feet downstream of 220th Street Bridge.	None	*1,100
			At northern corporate limit, approximately 5,500 feet upstream of 220th Street Bridge.	None	*1,105

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Anthon

Maps are available for inspection at City Hall, 301 East Main Street, Anthon, Iowa 51004.
Send comments to Mayor Michael Sauser, City Hall, 301 East Main Street, Anthon, Iowa 51004.

Flooding source(s)	Location of referenced elevation	* Elevated in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	
Eagle County, Colorado, and Incorporated Areas				
Eagle River	Just upstream of the confluence with the Colorado River	None	+6,144	Eagle County (Uninc. Areas),Town of Avon, Town of Eagle, Town of Gypsum, Town of Minturn.
	Approximately 1,040 feet downstream of the confluence with Two Elk Creek.	*7,984	+7,989	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Eagle County (Unincorporated Areas)

Maps are available for inspection at the Eagle County Building, 500 Broadway Street, Eagle, Colorado 81631.
Send comments to Honorable Peter Runyon, Chairman, Eagle County, Board of Commissioners, P.O. Box 850, Eagle, CO 81631.

Town of Avon

Flooding source(s)	Location of referenced elevation	* Elevated in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	

Maps are available for inspection at Avon Municipal Complex, 400 Benchmack Road, Avon, CO 81620.
Send comments to Honorable Buz Reynolds, Mayor, Town of Avon, P.O. Box 975, Avon, CO 81620.

Town of Eagle

Maps are available for inspection at Town Hall, Town of Eagle, 200 Broadway, Eagle, CO 81631.
Send comments to Honorable Jon Stavney, Mayor, 200 Broadway, P.O. Box 609, Eagle, CO 81631.

Town of Gypsum

Maps are available for inspection at Town Hall, Town of Gypsum, 50 Lundgren Boulevard, Gypsum, CO 81637.
Send comments to Honorable Stephen M. Carver, Mayor, Town of Gypsum, P.O. Box 130, Gypsum, CO 81637.

Town of Minturn

Map are available for inspection at Town Office, Town of Minturn, 302 Pine Street, Minturn, CO 81645.
Send comments to Honorable Gordon Flaherty, Mayor, Town of Minturn, P.O. Box 309, Minturn, CO 81645.

Hancock County, Indiana and Incorporated Areas

Bills Branch	At East 96th Street	None	+790	Town of McCordsville.
	Approximately 400 feet upstream of North Wind River Run	None	+838	
Brandywine Creek	Approximately 6,000 feet downstream of County Road 500 South.	None	+831	City of Greenfield, Hancock County (Unincorporated Areas).
	Approximately 790 feet upstream of County Road 400 North	None	+887	
Briney Ditch	At the confluence with Little Brandywine Creek	None	+859	Hancock County (Unincorporated Areas).
	Approximately 2,170 feet upstream of Interstate Highway 40	None	+895	
Dry Branch	At County Road 700 West	None	+831	Town of McCordsville.
	Approximately 1,580 feet upstream of County Road 500 West	None	+858	Hancock County (Unincorporated Areas).
Jackson Ditch	Approximately 1,190 feet downstream of West Staat Street	None	+845	Town of Fortville.
	Approximately 600 feet upstream of County Road 200 West	None	+857	Hancock County (Unincorporated Areas).
Jackson Arm Ditch	At the confluence with Jackson Ditch	None	+856	Hancock County (Unincorporated Areas).
	Approximately 2,010 feet upstream of West 850 North	None	+865	
Little Brandywine Creek.	At Steel Ford Road	+857	+856	City of Greenfield.
	Approximately 230 feet upstream of County Road 300 North	None	+911	Hancock County (Unincorporated Areas).
North Fork	At County Road 700 West	None	+820	Town of McCordsville
	Approximately 1,170 feet upstream of County Road 900 North	None	+853	Hancock County (Unincorporated Areas).
Putter Ditch	At the confluence with Brandywine Creek	+862	+861	City of Greenfield.
	Approximately 695 feet upstream of the confluence with Brandywine Creek.	+862	+861	
Rash Ditch	At the confluence with Jackson Ditch	None	+855	Hancock County (Unincorporated Areas).
	Just upstream of Meridian Road	None	+866	
Stansbury Ditch	At the confluence with Dry Branch	None	+843	Town of McCordsville.
	Approximately 4,610 feet upstream of County Road 700 North	None	+861	Hancock County (Unincorporated Areas).
West Fork Bills Branch.	At the confluence with Bills Branch	None	+796	Town of McCordsville.
	Approximately 2,005 feet upstream of Cardinal Drive	None	+821	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Town of Fortville

Maps are available for inspection at Courthouse Annex, 111 South American Legion Place, Greenfield, Indiana 46140.
Send comments to Mr. Joe Renner, Town Manager, Town of Fortville, 714 East Broadway, Fortville, Indiana 46040.

Town of Greenfield

Maps are available for inspection at 10 South State Street, Greenfield, Indiana 46140.
Send comments to The Honorable Rodney Fleming, Mayor, City of Greenfield, Keith J. McClarnon Government Center, 10 South State Street, Greenfield, Indiana 46140.

Hancock County (Unincorporated Areas)

Maps are available for inspection at Courthouse Annex, 111 South American Legion Place, Greenfield, Indiana 46140.
Send comments to Mr. Brian Kleiman, President, Hancock County Board of Commissioners, 111 South American Legion Place, Greenfield, Indiana 46140.

Flooding source(s)	Location of referenced elevation	* Elevated in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	
Town of McCordsville				
Maps are available for inspection at 9175 Stormy Port, McCordsville, Indiana 46055. Send comments to Ms. Tonya Galbraith, Town Manager, Town of McCordsville, 5759 West Broadway, McCordsville, Indiana 46055.				
Dodge County, Nebraska and Incorporated Areas				
Platte River (levee failure).	At Downing Street, south of Union Pacific Railroad	#2	+1188	City of Fremont. City of Inglewood.
	At U.S. Highway 77	None	+1197	City of North Bend.
	Approximately 1 mile downstream of State Highway 79	#2	+1268	Unincorporated Areas of Dodge County.
		#2	+1279	
	South of U.S. Highway 30 at County Road 5	#2	+1287	
Platte River (levee)	Approximately ½ mile downstream of Burlington Northern Railroad.	*1191	+1195	City of Fremont. City of Inglewood.
	At U.S. Highway 77	*1196	+1201	City of North Bend.
	At County Road 19, south of Union Pacific Railroad	*1214	+1216	Dodge County (Unincorporated Areas).
	Approximately 1 mile downstream of State Highway 79	*1267	+1272	
	Approximately 1 mile upstream of State Highway 79	*1280	+1285	
	South of Union Pacific Railroad, just upstream of County Road 3.	*1298	+1300	
Platte River Overflow	Just north of 23rd Street, west of Burlington Northern Railroad	None	#2	City of Fremont.
	At the intersection of County Road 5 and County Road S	None	#2	City of Inglewood.
	Between U.S. Highway 275 and Old Highway 8	#1	#2	City of North Bend.
	East of Burlington Northern Railroad and north of U.S. Highway 30/Highway 275.	#1	#2	Dodge County (Unincorporated Areas).
	Between U.S. Highway 30 and Burlington Northern Railroad, north of Rawhide Creek.	#1	#2	
	U.S. Highway 77, north of U.S. Highway 30/Highway 275	#2	+1197	
	At County Road 19, north of U.S. Highway 30	#2	+1212	
	At the intersection of County Road 17 and County Road T	#2	+1222	
	At County Road 11, north of U.S. Highway 30	#2	+1255	
	At Cottonwood Street, north of U.S. Highway 30	#2	+1276	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Inglewood

Maps are available for inspection at Inglewood Village Office, 445 Boulevard Street, Fremont, NE 68025.
Send comments to The Honorable Jerry Abrahamson, Chairman, Inglewood Village Board, 140 Boulevard Street, Inglewood, NE 68025.

City of North Bend

Maps are available for inspection at City Hall, North Bend, NE 68649.
Send comments to The Honorable Karan Legler, Mayor, City of North Bend, P.O. Box 491, North Bend, NE 68649.

Dodge County (Unincorporated Areas)

Maps are available for inspection at Dodge County Zoning Office, 435 N. Park, Fremont, NE 68025.
Send comments to The Honorable Bob Missel, Chairman, Dodge County Board, 427 N. Birchwood, Fremont, NE 68025.

Rockwall County, Texas and Incorporated Areas				
Berry Creek	Approximately 3000 feet downstream from State Highway 205	None	+487	City of Mclendon-Chisholm.
	Approximately 1250 feet upstream from the confluence with Berry Creek Tributary 1.	None	+499	
Bois d'Arc	Confluence with Sabine Creek	*530	+527	City of Royse City.
	Intersection with Highway 66 (County Boundary)	*534	+535	
Brushy Creek	Approximately 200 feet downstream from Klutts Drive	None	+485	City of Mclendon-Chisholm.
	Approximately 4200 feet upstream from Highway 276 (WS SCS Site 1a Dam Spillway).	None	+565	City of Rockwall.
Buffalo Creek	Approximately 2000 feet downstream from King Street (County Boundary).	*431	+432	City of Heath.
	Approximately 1500 feet upstream from T.L. Townsend Drive	*540	+541	City of Rockwall.
Buffalo Creek Tributary 1.	Approximately 1000 feet upstream from Highway 276	*530	+531	City of Rockwall.
	At railroad tracks	None	+564	
Buffalo Creek Tributary 1.1.	Confluence with Buffalo Creek Tributary 1	*538	+548	City of Rockwall.

Flooding source(s)	Location of referenced elevation	* Elevated in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	
	Intersection with Alpha Drive	*552	+553	
Buffalo Creek Tributary 1.2.	Confluence with Buffalo Creek Tributary 1	*547	+551	City of Rockwall.
	Intersection with Industrial Blvd.	*552	+558	
Camp Creek	Approximately 150 feet downstream from the confluence with Camp Creek Tributary 1.	*431	+432	City of Fate. Rockwall County (Unincorporated Areas).
	Approximately 1500 feet downstream from Riding Club Road	None	+565	
Camp Creek Tributary 1.	Confluence with Camp Creek	*513	+514	City of Fate.
	Approximately 3000 feet upstream from WS SCS Site 3f Dam	None	+541	Rockwall County (Unincorporated Areas).
Lake Ray Hubbard	Lake Ray Hubbard	None	+437	City of Heath. City of Rockwall. Rockwall County (Unincorporated Areas).
Long Branch	Approximately 300 feet downstream from the confluence with Long Branch Tributary 15.	None	+439	City of Heath. City of Mclendon-Chisholm.
	Approximately 1000 feet upstream from McDonald Road	None	+457	
Parker Creek	Approximately 250 feet upstream from the confluence with Klutts Branch.	None	+498	City of Fate. City of Royse City.
	Approximately 2000 feet downstream from the confluence with Parker Creek Tributary 10.	None	+559	Unincorporated Areas of Rockwall County.
Parker Creek Tributary 1.	Confluence with Parker Creek	None	+528	City of Fate.
	Approximately 1000 feet upstream from Highway 66	None	+577	City of Royse City.
Parker Creek Tributary 2.	Confluence with Parker Creek Tributary 1	None	+551	City of Fate.
	Approximately 1500 feet upstream from Highway 66	None	+580	
Pond Branch	Approximately 3500 feet upstream from the confluence with Sabine Creek.	*518	+517	City of Royse City.
	Approximately 100 feet upstream from Church Street	*537	+536	
Rush Creek	Approximately 750 feet upstream from Hubbard Drive	None	+437	City of Heath.
	Approximately 500 feet upstream from FM 740 Road	None	+507	
Sabine Creek	Confluence with Pond Creek	*513	+514	City of Royse City.
	County Line Road	*530	+528	
Squabble Creek	Golf Course Dam 1	*441	+439	City of Rockwall.
	Approximately 2000 feet upstream from Highway 205	*468	+473	
Yankee Creek	Approximately 1750 feet downstream from Terry Lane	None	+441	City of Heath.
	Approximately 1250 feet downstream from the confluence with Yankee Creek Tributary 1.	None	+496	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Fate:

Maps are available for inspection at 105 Fate Main Place, Fate, TX 75132.
Send comments to The Honorable David Hill, Mayor, City of Fate, P.O. Box 31, Fate, TX 75132.

City of Heath

Maps are available for inspection at Heath City Hall, 200 Laurence Drive, Heath, TX 75032.
Send comments to The Honorable John Ratcliffe, Mayor, City of Heath, 200 Laurence Drive, Heath, TX 75032.

City of Mclendon-Chisholm

Maps are available for inspection at 1248 South Hwy 205, Rockwall, TX 75032.
Send comments to The Honorable Michael Donegan, Mayor, City of Mclendon-Chisholm, 1248 State Hwy 205, Rockwall, TX 75032.

City of Rockwall

Maps are available for inspection at City Hall, 205 East Rusk, Rockwall, TX 75087.
Send comments to The Honorable William Cecil, Mayor, City of Rockwall, 385 S. Goliad, Rockwall, TX 75087.

City of Royse City

Maps are available for inspection at City Hall, 205 East Rusk, Rockwall, TX 75087.
Send comments to The Honorable William Cecil, Mayor, City of Royse City, 385 S. Goliad, Rockwall, TX 75087.

Rockwall County (Unincorporated Areas)

Maps are available for inspection at Rockwall Government Building, 1101 Ridge Road, Rockwall, TX 75087.
Send comments to The Honorable Bill Bell, Judge, Rockwall County, 101 East Rusk, Rockwall, TX 75087.

Flooding source(s)	Location of referenced elevation	* Elevated in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	
Columbia County, Wisconsin and Incorporated Areas				
Baraboo River	At confluence with the Wisconsin River	*788	790	Columbia County.
	Downstream side of Interstate 90	*797	*796	(Unincorporated Areas).
Big Slough	At confluence with Neenah Creek	*791	*790	Columbia County.
	Downstream side of State Highway 16	*792	*796	(Unincorporated Areas).
Duck Creek	Upstream side of U.S. Highway 51	*789	*791	Columbia County.
	Upstream side of Chicago Milwaukee St. Paul and Pacific Railroad.	*791	*791	(Unincorporated Areas).
Fox River	At downstream county boundary between Columbia and Marquette counties.	*782	*779	City of Portage, Columbia County (Unincorporated Areas.)
	Downstream side of Chicago Milwaukee St. Paul and Pacific Railroad.	*789	*785	
Neenah Creek	Downstream side of County Highway CM	*783	*781	Columbia County (Unincorporated Areas).
	At confluence with Big Slough	*791	*790	
Spring Creek	Approximately ½ mile downstream of Fair Street	*806	*805	City of Lodi.
	Upstream side of Riddle Road	*833	*834	
Spring Creek Tributary A.	At confluence with Spring Creek	*821	*821	City of Lodi.
	Approximately 1,300 feet upstream of Spring Street	*821	*821	
Wisconsin River	Downstream side of State Highway 60	*748	*748	City of portage, City of Wisconsin Dells, Columbia County (Unincorporated Areas).
	Upstream side of Interstate 39	*795	*798	
	At upstream county boundary between Columbia and Adams counties.	*848	*848	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Columbia County (Unincorporated Areas)

Maps are available for inspection at: Columbia County Planning and Zoning Department, 400 DeWitt St., Portage, WI 53901.
Send comments to: John Bluemke, Director of Planning and Zoning, 400 DeWitt St., Portage, WI 53901.

City of Lodi

Maps are available for inspection at: City Clerk's Office, 130 S. Main St., Lodi, WI 53555.
Send comments to: Zoning Administrator, 130 S. Main St., Lodi, WI 53555.

City of Portage

Maps are available for inspection at: City Hall, 115 W. Pleasant St., Portage, WI 53901.
Send comments to: City Administrator, 115 W. Pleasant St., Portage, WI 53901.

City of Wisconsin Dells

Maps are available for inspection at: City Hall, 300 La Crosse St., Wisconsin Dells, WI 53965.
Send comments to: Michael Horkan, Director of Public Works, 300 La Crosse St., Wisconsin Dells, WI 53965.

Spokane County, Washington (Unincorporated Areas).				
Chester Creek	Approximately 3520 feet downstream of the downstream intersection of Chester Creek and Nina Circle.	*1984	+1986	Spokane County (Unincorporated Areas).
	The downstream intersection of Chester Creek and Nina Circle 40 feet.	*1988	+1993	
	Upstream of the intersection between Chester Creek and Dishman Mica Road.	None	+2229	
Chester Creek (without levee) downstream of Bowdish Road.	Approximately 2240 feet downstream of the intersection with Bowdish Road.	None	+2006	Spokane County (Unincorporated Areas).
	Approximately 25 feet downstream of the intersection with Bowdish Road.	None	+2008	
Chester Creek (without levee) upstream of Bowdish Road.	Approximately 70 feet upstream of Bowdish Road	None	+2008	Spokane County (Unincorporated Areas).
	Approximately 1040 feet upstream of Bowdish Road	None	+2010	
Chester Creek Golf Course Overflow.	Approximately 1900 feet downstream of Thorpe Road	None	+2010	Spokane County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevated in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	
	Approximately 70 feet downstream from the divergence from Chester Creek.	None	+2026	
Chester Creek West of Borrow Pit.	Just upstream of the confluence with Chester Creek	None	+1998	Spokane County (Unincorporated Areas).
	Just downstream of South Shafer Road	None	+2006	
Dredge Channel	Just upstream of the confluence with Chester Creek	None	+2005	Spokane County (Unincorporated Areas).
	Approximately 1330 feet upstream of the confluence with Chester Creek.	None	+2006	
Left Bank Overflow Channel.	Just upstream of the confluence with the Unamed Tributary to Chester Creek.	None	+2009	Spokane County (Unincorporated Areas).
	Approximately 3000 feet upstream of the confluence with the Unamed Tributary to Chester Creek.	None	+2016	
Right Bank Overflow Channel.	Approximately 2650 feet downstream of East 46th Avenue	None	+2020	Spokane County (Unincorporated Areas).
	Approximately 60 feet downstream of East 46th Avenue	None	+2038	
Storage Area 1	Southwest of the Pines Road and East 40th Avenue intersection.	None	+2008	Spokane County (Unincorporated Areas).
Storage Area 2	South of 28th Avenue and east of South Dishman Mica Road	None	+2001	Spokane County (Unincorporated Areas).
Storage Area 3	East of Dishman Mica Road at South Raymond Road and 28th Avenue intersection.	None	+2001	Spokane County (Unincorporated Areas).
Storage Area 4	Southeast of the U.S. Highway 27 and East Belle Terre Avenue intersection.	None	+2019	Spokane County (Unincorporated Areas).
Storage Area 5	North of East 28th Avenue and east of Dishman Mica Road	None	+2001	Spokane County (Unincorporated Areas).
Unamed Tributary to Chester Creek.	Approximately 3415 feet downstream of intersection with Pines Road.	None	+2008	Spokane County (Unincorporated Areas).
	Approximately 440 feet upstream of the intersection with South Tolbert Lane.	None	+2092	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Spokane County (Unincorporated Areas).

Maps are available for inspection at 1026 West Broadway, Spokane, WA 99260.
Send comments to The Honorable Marshall Farnell, Chairman, Spokane County Board of Commissioners, 1116 West Broadway Courthouse, Spokane, WA 99260.

Whatcom County, Washington, and Incorporated Areas

Birch Bay	Intersection of Birch Bay Drive and Lora Lane	*8	*8	Whatcom County (Unincorporated Areas).
	Intersection of Birch Bay Drive and Harborview Road	None	*12	
	500 feet southwest of the intersection of Comox Road and Nakat Place.	None	*14	
Lummi Bay	2000 feet south of the intersection of Sicia Drive and Germaine Road, 100 feet west of Sucia Drive.	*11	*10	Tribe of Lummi Indian Reservation
	1500 feet north of the intersection of Sucia Drive and Thetis Street, 100 feet west of Sucia Drive.	#3	*11	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Tribe of Lummi Indian Reservation

Maps are available for inspection at Lummi Land Development Office, 2616 Kwina Drive, Bellingham, WA 98226.
Send comments to The Honorable Darrel Hillaire, Chairman, Lummi Indian Business Council, 2616 Kwina Drive, Bellingham, WA 98226.

Whatcom County (Unincorporated Areas).

Maps are available for inspection at Whatcom County Public Works, River and Flood Division, 322 North Commercial Street, Suite 1200, Bellingham, WA 98225.
Send comments to The Honorable Pete Kremen, County Executive, Whatcom County, 311 Grand Avenue, Suite 108, Bellingham, WA 98225.

Burnett County, Wisconsin, and Incorporated Areas

Austin Lake	Austin Lake	None	+966	Burnett County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevated in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	
Big Doctor Lake	Big Doctor Lake	None	+987	Village of Siren, Burnett County (Unincorporated Areas).
Big McKenzie Lake ...	Big McKenzie Lake	None	+990	Burnett County (Unincorporated Areas).
Birch Island Lake	Birch Island Lake	None	+995	Burnett County (Unincorporated Areas).
Clam Lake Flowage ..	Clam Lake Flowage	None	+905	Burnett County (Unincorporated Areas).
Danbury Flowage	Danbury Flowage	*930	+932	Burnett County (Unincorporated Areas).
Devils Lake	Devils Lake	None	+965	Burnett County (Unincorporated Areas).
Dunham Lake	Dunham Lake	None	+978	Burnett County (Unincorporated Areas).
Lily Lake	Lily Lake	None	+996	Burnett County (Unincorporated Areas).
Little Yellow Lake	Little Yellow Lake	*931	+933	Burnett County (Unincorporated Areas).
Long Lake (T38NR16WS16).	Long Lake (T38NR16WS16)	None	+962	Burnett County (Unincorporated Areas).
Lower Clam Lake	Lower Clam Lake	None	+956	Burnett County (Unincorporated Areas).
Lost Lake #1	Lost Lake #1	None	+993	Burnett County (Unincorporated Areas).
Lost Lakes #2, 3, 4 ...	Lost Lakes #2, 3, 4	None	+992	Burnett County (Unincorporated Areas).
Middle McKenzie Lake.	Middle McKenzie Lake	None	+989	Burnett County (Unincorporated Areas).
Mud Lake	Mud Lake	None	+965	Burnett County (Unincorporated Areas).
Nickaboyne Lake	Nickaboyne Lake	None	+994	Burnett County (Unincorporated Areas).
Tabor Lake	Tabor Lake	None	+942	Burnett County (Unincorporated Areas).
Webb Lake	Webb Lake	None	+941	Burnett County (Unincorporated Areas).
Wood River	Approximately 950 feet downstream of Cross Town Road	None	+915	Burnett County (Unincorporated Areas).
	Downstream of County Highway Y	None	+918	
Yellow Lake	Yellow Lake	*931	+933	Burnett County (Unincorporated Areas).
Yellow River	At confluence with the St. Croix River	None	+873	Village of Webster, Burnett County (Unincorporated Areas).
	Approximately 820 feet upstream of Yellow River Road	None	+999	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Burnett County (Unincorporated Areas).

Maps are available for inspection at: Burnett County Department of Planning and Zoning, 7410 Co Rd K, Siren, WI 54872.
Send comments to: James P. Flanigan, Zoning Administrator, 7410 Co Rd K, Siren, WI 54872.

Village of Siren

Maps are available for inspection at: Village Hall, 24049—1st Ave., N., Siren, WI 54872.
Send comments to: Richard Engstrom, Village President, 24049—1st Ave., N., Siren, WI 54872.

Village of Webster

Maps are available for inspection at: Village Hall, 7505 Main St., Webster, WI 54893.
Send comments to: Paul Cyms, Village President, 7505 Main St., Webster, WI 54893.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: January 23, 2007.

David I. Maurstad,

Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–1770 Filed 2–2–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7705]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This proposed 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 proposed rule involves no policies that have federalism implications under Executive Order 13132.

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Grand County, Colorado, and Incorporated Areas				
Fraser River	Approximately 1700 ft upstream of the intersection with State Highway 8.	None	+8550	Town of Fraser Grand County (Unincorporated Areas).
	Approximately 2445 ft downstream of the confluence with Leland Creek.	*8623	+8628	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Town of Fraser

Maps are available for inspection at 153 Fraser Avenue, Fraser, CO 80442.
Send comments to The Honorable Fran Cook, Mayor, Town of Fraser, P.O. Box 120, Fraser, CO 80442.

Grand County (Unincorporated Areas)

Maps are available for inspection at 308 Byers Avenue, Hot Sulphur Springs, CO 80451.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Send comments to Mr. James Newberry, Chairman, Board of County Commissioners, P.O. Box 264, Hot Sulphur Springs, CO 80451.				
Edwards County, Kansas, and Incorporated Areas				
Arkansas River	At U.S. Highway 50	None	+2160	Edwards County (Unincorporated Areas).
	Approximately 2 miles upstream of Old U.S. Highway 183.	None	+2187	
Big Coon Creek	At U.S. Highway 50	None	+2164	Edwards County (Unincorporated Areas), City of Kinsley.
	At Colony Avenue	*2171	+2172	
	Approximately 1 mile upstream of Winchester Avenue	None	+2179	
Little Coon Creek	At Winchester Avenue	None	+2169	Edwards County (Unincorporated Areas).
	Approximately 2 miles upstream of County Road 13 ..	None	+2183	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Edwards County (Unincorporated Areas)

Maps are available for inspection at the County Clerk's Office, 312 Massachusetts Avenue, Kinsley, KS 67547.
Send comments to The Honorable Duane Mathes, Commissioner, Edwards County, 312 Massachusetts Avenue, Kinsley, KS 67547.

City of Kinsley

Maps are available for inspection at City Hall, 721 Marsh, Kinsley, KS 67547.
Send comments to The Honorable Michael Hermann, Mayor, City of Kinsley, 721 Marsh, Kinsley, KS 67547.

Hillsborough County, New Hampshire and Incorporated Areas				
Baboosic Brook	At confluence with Souhegan River	*119	+118	Town of Bedford, Town of Merrimack.
	Approximately 1,150 feet downstream of Stowell Road.	*222	+221	
Chase Brook	Just upstream of State Route 3A	*135	+136	Town of Litchfield.
	Approximately 100 feet upstream of Pilgrim Road	None	+174	
Contoocook River	Approximately 1.52 miles upstream of Boston and Maine Railroad.	*595	+594	Town of Hillsborough, Town of Peterborough.
	Approximately 1.37 miles upstream of Drury Road	*851	+854	
Gumpas Road Brook	Just upstream of Marsh Road	*136	+137	Town of Pelham.
	Just upstream of Debbie Drive	None	+167	
Naticook Brook	At U.S. Route 3	*122	+117	Town of Merrimack.
	Approximately 70 feet downstream of Naticook Lake Outlet.	None	+204	
Nesenkeag Brook	Approximately 100 feet downstream of State Route 3A.	*121	+120	Town of Litchfield.
	Approximately 1 mile upstream of Albuquerque Boulevard.	*173	+182	
Nubanusit Brook	At confluence with Contoocook River	*721	+722	Town of Peterborough.
	Approximately 30 feet upstream of Wilder Street	*861	+863	
Otter Brook	Approximately 450 feet downstream of State Route 136.	*702	+703	Town of Peterborough, Town of Greenfield.
	Approximately 2,300 feet upstream of the confluence of Otter Lake Brook.	*800	+801	
Pennichuck Brook	Just upstream of Harris Pond Dam	*139	+142	City of Nashua.
	Just downstream of Pennichuck Pond Outlet	*191	+189	
Salmon Brook	At confluence with Merrimack River	*113	+112	City of Nashua.
	Approximately 2,800 feet upstream of Ridge Road Bridge.	*160	+156	
Second Brook	Approximately 400 feet upstream of Radcliffe Road	*115	+112	Town of Hudson.
	Approximately 40 feet upstream of Wason Road	None	+177	
Pointer Club Brook	Approximately 480 feet downstream of U.S. Highway 3.	None	+146	Town of Merrimack.
	Just downstream of F.E. Everett Turnpike	None	+155	
Stony Brook	Just downstream of Small Dam	None	+820	Town of Lyndeborough.
	Approximately 2,600 feet downstream of School House Road.	None	+825	
Tributary B No. 1	At confluence with Chase Brook	*169	+170	Town of Litchfield.
	Just upstream of State Route 102	None	+193	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Tributary B No. 2	Approximately 400 feet upstream of Forest Road	None	+820	Town of Greenfield.
	Approximately 2,600 feet upstream of Forest Road	None	+835	
Naticook Lake	For the entire Lake	None	+208	Town of Merrimack.

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Town of Bedford

Maps are available for inspection at Bedford Town Planning Department, 24 North Amherst Road, Bedford, New Hampshire.
Send comments to Mr. Keith Hickey, Bedford Town Manager, Bedford Town Offices Building, 24 North Amherst Road, Bedford, New Hampshire 03000.

Town of Greenfield

Maps are available for inspection at Greenfield Town Hall, 7 Sawmill Road, Greenfield, New Hampshire.
Send comments to Mr. William Brooks, Chairman, Town of Greenfield Board of Selectmen, Greenfield Town Office, Post Office Box 256, Greenfield, New Hampshire 03047.

Town of Hillsborough

Maps are available for inspection at Hillsborough Town Planning Department, 29 School Street, Hillsborough, New Hampshire.
Send comments to Mr. Robert Bucker, Chairman, Town of Hillsborough Board of Selectmen, Post Office Box 7, Hillsborough, New Hampshire 03244.

Town of Hudson

Maps are available for inspection at Hudson Town Planning Department, 12 School Street, Hudson, New Hampshire.
Send comments to Mr. William Cole, Chairman, Town of Hudson Board of Selectmen, 12 School Street, Hudson, New Hampshire 03051.

Town of Litchfield

Maps are available for inspection at Litchfield Town Hall, 2 Liberty Way, Suite 1, Litchfield, New Hampshire.
Send comments to Mr. Jack Pinciaro, Town of Litchfield Board of Selectmen, Litchfield Town Hall, 2 Liberty Way, Litchfield, New Hampshire 03052.

Town of Lyndeborough

Maps are available for inspection at Lyndeborough Town Hall, 9 Citizens Hall Road, Lyndeborough, New Hampshire.
Send comments to Ms. Lorraine Strube, Chairman, Town of Lyndeborough Board of Selectmen, Post Office Box 6, Lyndeborough, New Hampshire 03082.

Town of Merrimack

Maps are available for inspection at Merrimack Town Hall, 6 Baboosic Lake Road, Merrimack, New Hampshire.
Send comments to Mr. William Mulligan, Merrimack Town Manager, Post Office Box 940, Merrimack, New Hampshire 03054.

City of Nashua

Maps are available for inspection at City of Nashua Planning Department, 229 Main Street, Nashua, New Hampshire.
Send comments to The Honorable Bernard Streeter, Mayor, City of Nashua, 229 Main Street, Nashua, New Hampshire 03061.

Town of Pelham

Maps are available for inspection at Town of Pelham Planning Department, 6 Village Green, Pelham, New Hampshire.
Send comments to Mr. William McDevitt, Chairman, Town of Pelham Board of Selectmen, 6 Village Green, Pelham, New Hampshire 03076.

Town of Peterborough

Maps are available for inspection at Town of Peterborough Planning Department, One Grove Street, Peterborough, New Hampshire.
Send comments to Ms. Pam Brenner, Peterborough Town Administrator, Peterborough Town House, One Grove Street, Peterborough, New Hampshire 03458.

Barnes County, North Dakota, and Incorporated Areas

Sheyenne River	Approximately 3200 feet downstream from 117th Ave, SE. (Barnes County Highway 21).	*1214	+1214	City of Valley City.
	Just upstream from Interstate 94	*1218	+1219	
	Approximately 3350 feet upstream from 65th Street NE.	*1225	+1224	
	Approximately 5600 feet upstream from Maryvale Bridge.	None	+1228	
Sheyenne River	Approximately 700 feet upstream from ND Highway 46.	None	+1162	Barnes County (Unincorporated Areas).
	Just downstream from 43rd St., SE. (Barnes County Highway 21).	*1199	+1198	
	Just downstream from Baldhill Dam	None	+1239	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Valley City

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	

Maps are available for inspection at City Hall, 220 3rd St. NE., Valley City, ND 58072.
Send comments to The Honorable Mary Lee Nielson, Mayor, P.O. Box 390, Valley City, ND 58072.

Barnes County (Unincorporated Areas)

Maps are available for inspection at Barnes County Courthouse, 230 4th Street NW., Valley City, ND 58072.
Send comments to The Honorable Harlan Opdahl, Chairman, 230 4th Street NW., Valley City, ND 58072.

Washington County, Oklahoma, and Incorporated Areas

Caney River	Approximately 2000 feet upstream from West 2350 Drive.	*663	+664	City of Bartlesville Washington County (Unincorporated Areas).
	At intersection with West 1400 Road	*683	+684	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Bartlesville

Maps are available for inspection at 420 S. Johnstone, Bartlesville, OK 74004.
Send comments to The Honorable Julie Daniels, Mayor, City of Bartlesville, 401 S. Johnstone, Bartlesville, OK 74003.

Washington County (Unincorporated Areas)

Maps are available for inspection at 420 S. Johnstone, Bartlesville, OK 74004.
Send comments to The Honorable, Linda D. Herdon, Chairman of the Board, County Commissioners, 400 S. Johnstone, Bartlesville, OK 74003.

Morrow County, Oregon, and Incorporated Areas

Blackhorse Canyon	Approximately 480 feet downstream from Arcade Street Bridge.	*1439	+1442	City of Lexington.
	Approximately 0.4 miles upstream from SR 74	*1478	+1479	
Hinton Creek	Downstream side of Main Street Bridge	*1933	+1930	City of Heppner Morrow County (Unincorporated Areas).
	Approximately 560 feet upstream from SR 74	*2044	+2045	
Little Blackhorse Canyon	Approximately 350 feet downstream from SR 74 Culvert.	*1870	+1872	Morrow County (Unincorporated Areas).
	Approximately 1.0 miles upstream from SR 74	*2109	+2120	
Lorraine Canyon	Approximately 130 feet downstream from SR 74	None	+1093	City of Ione.
	Approximately 720 feet upstream from SR 74	*1139	+1159	
Rietmann Canyon	Approximately 250 feet downstream of SR 74 Bridge	*1095	+1099	City of Ione.
	Approximately 500 ft. upstream of SR 74 Bridge	*1109	+1115	
Shobe Creek	Approximately 400 feet downstream from Chase Street Bridge.	*1957	+1960	City of Heppner Morrow County (Unincorporated Areas).
	Approximately 0.4 miles upstream from SR 207	*2150	+2162	
Willow Creek	Approximately 2.1 miles downstream from Fuller Canyon Road.	*1789	+1793	City of Heppner Morrow County (Unincorporated Areas).
	Approximately 625 feet upstream of Alfalfa Street Bridge.	*1979	+1977	
Willow Creek	Approximately 1400 feet downstream from Gooseberry Road.	*1071	+1069	City of Ione Morrow County (Unincorporated Areas).
	Approximately 0.8 miles upstream from Gooseberry Road.	*1099	+1100	
Willow Creek	Approximately 0.9 miles downstream of B Street Bridge.	*1405	+1408	City of Lexington Morrow County (Unincorporated Areas).
	Approximately 800 feet upstream of B Street Bridge	*1456	+1458	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Heppner

Maps are available for inspection at 111 N. Main Street, Heppner, OR 97836.
Send comments to The Honorable David Demayo, City Manager, City of Heppner, P.O. Box 756, Heppner, OR 97836.

City of Ione

Maps are available for inspection at City Hall, 385 West 2nd, Ione, OR 97843.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	

Send comments to The Honorable Marc Bruno, Mayor, City of Ione, P.O. Box 361, Ione, OR 97843.

City of Lexington

Maps are available for inspection at City Hall, 150 Main Street, Lexington, OR 97839.
Send comments to The Honorable Valerie Doherty, Mayor, City of Lexington, P.O. Box 416, Lexington, OR 97839.

Morrow County (Unincorporated Areas)

Maps are available for inspection at Morrow County Planning Department, 205 NE. 3rd Street, Irrigon, OR 97844.
Send comments to The Honorable Terry Tallman, Commissioner, Morrow County, P.O. Box 788, Heppner, OR 97836.

Coffee County, Tennessee, and Incorporated Areas

Duck River	Approximately 740 feet downstream of U.S. Highway 41.	*999	+1001	City of Manchester.
	Approximately 263 feet downstream of U.S. Highway 41.	*999	+1001	
Duck River	Approximately 263 feet downstream of U.S. Highway 41.	*999	+1001	Coffee County (Unincorporated Areas).
	Just upstream of Interstate 24	*1013	+1012	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Manchester

Maps are available for inspection at Planning and Use Department, 1329 McArthur Street, Manchester, TN 37355.
Send comments to The Honorable Johnnie W. Brown, Mayor, City of Manchester, 301 Oakdale Street, Manchester, TN 37355.

Coffee County (Unincorporated Areas)

Maps are available for inspection at Manchester City Hall, 200 West Fort Street, Manchester, TN 37355.
Send comments to The Honorable David Pennington, Mayor, Coffee County, County Courthouse, 300 Hillsboro Boulevard, Manchester, TN 37355.

Cooke County, Texas and Incorporated Areas

Indian Creek East Lower Reach.	At confluence with Lake Ray Roberts	None	+645	Cooke County (Unincorporated Areas).
	At Lake Kiowa Dam	None	+705	
Indian Creek East Tributary 1	At the confluence with Indian Creek East	None	+645	Cooke County (Unincorporated Areas).
	Approximately 1,000 feet upstream from FM 217	None	+693	
Indian Creek East Tributary 2	At the confluence with Indian Creek East Lower Reach.	None	+663	Cooke County (Unincorporated Areas).
	Approximately 1,000 feet downstream from FM Road 3496.	None	+724	
Indian Creek Upper Reach	At confluence with Lake Kiowa	None	+705	Cooke County (Unincorporated Areas).
	Approximately 2500 feet upstream from confluence with Lake Kiowa.	None	+718	
Lake Kiowa	Lake Kiowa	None	+705	Cooke County (Unincorporated Areas).
Lake Ray Roberts	Lake Ray Roberts	None	+645	Cooke County (Unincorporated Areas).
Pecan Creek North	Approximately 4,000 feet downstream from FM Road 2071.	None	+703	Cooke County (Unincorporated Areas).
	Approximately 2,000 feet upstream from I–35	None	+783	
Pecan Creek South	At the Confluence with Lake Ray Roberts	None	+645	City of Valley View Cooke County (Unincorporated Areas).
	Approximately 750 feet upstream from FM Road 922	None	+712	
Pecan Creek South Tributary 1.	At the Confluence with Pecan Creek South	None	+646	Cooke County (Unincorporated Areas).
	At intersection with FM Road 922	None	+687	
Persimmon Creek	At confluence with Elm Fork Trinity River	None	+645	Cooke County (Unincorporated Areas).
	Approximately 2,000 feet upstream from North Shore Drive.	None	+700	
Persimmon Creek Tributary 1	At confluence with Persimmon Creek (Pioneer Valley Lake).	None	+664	Cooke County (Unincorporated Areas).
	Approximately 2,000 feet upstream from confluence with Persimmon Creek (Pioneer Valley Lake).	None	+689	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Persimmon Creek Tributary 2	Confluence with Persimmon Creek (Pioneer Valley Lake).	None	+664	Cooke County (Unincorporated Areas).
	Approximately 1,500 feet upstream from confluence with Persimmon Creek (Pioneer Valley Lake).	None	+667	
Persimmon Creek Tributary 3	At confluence with Persimmon Creek	None	+678	Cooke County (Unincorporated Areas).
	Approximately 1,500 feet upstream from the confluence with Persimmon Creek.	None	+697	
Pond Creek	Approximately 1,000 feet downstream from confluence with Pond Creek Tributary 2 (County Border).	None	+646	Cooke County (Unincorporated Areas).
	Approximately 1,000 feet downstream from Rail Road (County Border).	None	+674	
Pond Creek Tributary 1	At the confluence with Pond Creek	None	+646	Cooke County (Unincorporated Areas).
	Approximately 1,200 feet upstream from I–35	None	+705	
Pond Creek Tributary 2	At the confluence with Pond Creek Tributary	None	+675	Cooke County (Unincorporated Areas).
	Approximately 1,000 feet upstream from I–35	None	+702	
Tributary Kiowa 1	Confluence with Lake Kiowa	None	+705	Cooke County (Unincorporated Areas).
	Approximately 1,200 feet upstream from confluence with Lake Kiowa.	None	+713	
Tributary Kiowa 2	At confluence with Lake Kiowa	None	+705	Cooke County (Unincorporated Areas).
	Approximately 2,500 feet upstream from confluence with Lake Kiowa.	None	+723	
Wolf Creek	At the confluence with Lake Ray Roberts	None	+645	Cooke County (Unincorporated Areas).
	Approximately 1,000 feet upstream from FM 295	None	+746	
Wolf Creek Tributary 1	At the confluence with Wolf Creek	None	+681	Cooke County (Unincorporated Areas).
	Approximately 2,700 feet upstream from confluence with Wolf Creek.	None	+709	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Valley View

Maps are available for inspection at 100 South Dixon, Gainesville, TX 76240.
Send comments to The Honorable Carl Kemplin, Mayor, City of Valley View, P.O. Box 268, Valley View, TX 76272.

Cooke County (Unincorporated Areas)

Maps are available for inspection at 100 South Dixon, Gainesville, TX 76240.
Send comments to The Honorable Bill Freeman, County Judge, 100 South Dixon, Room 110, Gainesville, TX 76240.

Clarke County, Virginia, and Incorporated Areas

Shenandoah River	Approximately 2.47 miles downstream of Harry Byrd Highway/State Highway 7, at the Clarke County/ West Virginia State line.	None	+379	Clarke County (Unincorporated Areas).
	Approximately 3.91 miles upstream of John Mosby Highway/U.S. Highway 17/50, at the Clarke/ Fauquier County line.	None	+456	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Clarke County (Unincorporated Areas)

Maps are available for inspection at the County Administration Building, 102 North Church Street, Berryville, VA 22611.
Send comments to Mr. David Ash, County Administrator, Clarke County, 102 North Church Street, Berryville, VA 22611.

Warren County, Virginia, and Incorporated Areas

North Fork Shenandoah River.	Confluence with South Fork Shenandoah River	None	+498	Warren County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
South Fork Shenandoah River.	Town of Front Royal Corporate Limits (approximately 1.46 miles upstream of confluence with Shenandoah River).	None	+498	Warren County (Unincorporated Areas).
	Confluence of Punches Run	None	+500	
	Town of Front Royal Corporate Limits (just upstream of Catlett Mountain Road and Luray Avenue).	*499	+506	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Warren County (Unincorporated Areas).

Maps are available for inspection at 220 North Commerce Avenue, Suite 400, Front Royal, VA 22630.
Send comments to Mr. Douglas P. Stanley, County Administrator, 220 North Commerce Avenue, Suite 100, Front Royal, VA 22630.

Kitsap County, Washington, and Incorporated Areas

Clear Creek	Downstream side of NW. Bucklin Hill Road	*10	+13	Kitsap County (Unincorporated Areas).
	Approximately 60 feet downstream of NW. Mountain View Road.	None	+180	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Kitsap County (Unincorporated Areas)

Maps are available for inspection at Department of Public Works 614 Division Street, Administrative Building, Port Orchard, WA 98366.
Send comments to Dave Tucker, Surface/Stormwater Supervisor, Department of Public Works 614 Division Street, Administrative Building, Port Orchard, WA.

Rock County, Wisconsin and Incorporated Areas

Allen Creek	170 feet downstream of Highway 213/59	None	*871	City of Evansville, Rock County (Unincorporated Areas).
	At Lake Leota Dam	*902	*903	
Bass Creek	At Highway 11	*802	*801	Village of Footville, Rock County (Unincorporated Areas).
	At W. Dorner Road	None	*814	
Blackhawk Creek	Upstream face of Highway 14 bridge	None	*838	Rock County (Unincorporated Areas).
	500 feet upstream of S. Milton Shopiere Rd	None	*877	
East Fork Raccoon Creek	1 mile downstream from W. Saint Lawrence Ave	*746	*746	Rock County (Unincorporated Areas).
	W. Spring Creek Rd	*770	*770	
Fisher Creek	At mouth at Rock River	*760	*761	City of Janesville, Rock County (Unincorporated Areas).
	2100 feet upstream of N. Little Rd	None	*969	
Greenbelt Tributary 1	At mouth at Blackhawk Creek	*808	*808	City of Janesville.
	Just downstream of Sandhill Dr	None	*878	
Greenbelt Tributary 2	At mouth at Greenbelt Tributary 4	None	*851	City of Janesville, Rock County (Unincorporated Areas).
	470 feet upstream of E. Milwaukee St	None	*873	
Greenbelt Tributary 3	At mouth at Greenbelt Tributary 1	None	*834	City of Janesville, Rock County (Unincorporated Areas).
	½ mile upstream of Saratoga Dr	None	*877	
Greenbelt Tributary 4	At mouth at Greenbelt Tributary 1	None	*828	City of Janesville, Rock County (Unincorporated Areas).
	350 feet upstream of County Highway A	None	*880	
Greenbelt Tributary 5	At mouth at Greenbelt Tributary 4	None	*829	City of Janesville, Rock County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
	600 feet upstream of Highway 14	None	*882	
Markham Creek	At mouth at Rock River	*759	*760	City of Janesville, Rock County (Unincorporated Areas).
	2100 feet upstream of W. Hanover Rd	None	*819	
Morningside Tributary	At mouth at Spring Brook-Janesville	*808	*808	City of Janesville.
	Just downstream of Humes Rd	None	*877	
Raccoon Creek	1 mile downstream from W. Saint Lawrence Ave	*741	*742	Rock County (Unincorporated Areas).
	Just upstream of Highway 81	None	*773	
Rock River	State line 70 feet downstream of Shirland Ave	*737	*738	City of Janesville, City of Beloit, Rock County (Unincorporated Areas).
	At Lake Koshkonong	*784	*785	
Saunders Creek	At mouth at Rock River	*782	*783	City of Edgerton, Rock County (Unincorporated Areas).
	At County Boundary approx. 1¾ miles upstream of pedestrian bridge at Chamberlain and Blaine St.	*822	*822	
Spring Brook-Beloit	At mouth at Turtle Creek	*764	*764	City of Beloit, Rock County (Unincorporated Areas).
	60 feet upstream of Clinton Corners Rd	None	*917	
Unnamed Tributary 1 to Raccoon Creek.	At mouth at Raccoon Creek	*761	*761	Rock County (Unincorporated Areas).
	W. Beloit Newark Rd	*804	*804	
Unnamed Tributary 2 to Raccoon Creek.	Mouth at Unnamed Tributary 1 to Raccoon Creek	*763	*763	Rock County (Unincorporated Areas).
	W. Beloit Newark Rd	*826	*827	
Unnamed Tributary 1 to Rock River.	At mouth at Rock River	*753	*754	Rock County (Unincorporated Areas).
	At County Highway G	None	*780	
Unnamed Tributary to Blackhawk Creek.	At mouth at Blackhawk Creek	None	*860	Rock County (Unincorporated Areas).
	Just downstream of N. Tarrant Rd	None	*887	
Unnamed Tributary to E. Fork Raccoon Creek.	At mouth at East Fork Raccoon Creek	*755	*754	Rock County (Unincorporated Areas).
	300 feet upstream of County Highway Q	None	*818	
Unnamed Tributary in Turtle Township.	1.4 miles downstream from Highway 67 bridge	None	*791	Rock County (Unincorporated Areas).
	400 feet downstream from Clinton Corners Rd	None	*920	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Rock County (Unincorporated Areas)

Maps are available for inspection at: Rock County Department of Planning Development, 51 South Main Street, Janesville, WI 53545.
Send comments to: James Forrestal, Zoning Administrator, 51 South Main Street, Janesville, WI 53545.

City of Beloit

Maps are available for inspection at: Engineering Department, 100 State St., Beloit, WI 53511.
Send comments to: Mike Flesch, City Engineer, 100 State St., Beloit, WI 53511.

City of Edgerton

Maps are available for inspection at: City Hall, 12 Albion St., Edgerton, WI 53534.
Send comments to: Ramona Flanigan, City Administrator, 12 Albion St., Edgerton, WI 53534.

City of Evansville

Maps are available for inspection at: City Hall, 31 South Madison St., Evansville, WI 53536.
Send comments to: Willam Connors, City Administrator, 31 South Madison St., Evansville, WI 53536.

City of Janesville

Maps are available for inspection at: City Hall, 18 N. Jackson St., Janesville, WI 53547–5005.
Send comments to: Brad Cantrell, Community Development Director, 18 N. Jackson St., Janesville, WI 53547–5005.

Village of Footville

Maps are available for inspection at: Village Hall, 156 Depot St., Footville, WI 53537.
Send comments to: Gary Selck, Village President, 156 Depot St., Footville, WI 53537.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Snohomish County, Washington, and Incorporated Areas				
Skykomish River	Approximately 0.5 miles southwest of the intersection of 183rd Avenue SE and 176th Street SE.	*47	+50	City of Monroe.
	Approximately 0.7 miles southwest of the intersection of Highway 2 and 227th Avenue.	*66	+69	
Skykomish River	Approximately 0.9 miles upstream of State Route 522	*42	+47	Snohomish County (Unincorporated Areas).
	Approximately 0.4 miles southeast of the intersection of Highway 2 and Fern Bluff Road.	*85	+89	
Snohomish River	Just upstream of State Route 522	*41	+43	Snohomish County (Unincorporated Areas).
	Approximately 0.9 miles upstream of State Route 522	*42	+47	
Snoqualmie River	Approximately 0.9 miles upstream of State Route 522	*42	+47	Snohomish County (Unincorporated Areas).
	At the boundary with King County	*46	+50	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Monroe

Maps are available for inspection at Engineering Department, 806 West Main Street, Monroe, WA 98272.
Send comments to The Honorable Donnetta Walser, Mayor, City of Monroe, City Hall, 806 West Main Street, Monroe, WA 98272.

Snohomish County (Unincorporated Areas)

Maps are available for inspection at Snohomish County Planning and Development Services, 3000 Rockefeller Avenue M/S 604, Everett, WA 98201.
Send comments to The Honorable Kirke Sievers, Chairman, Snohomish County Council, 3000 Rockefeller Avenue M/S 609, Everett, WA 98201.

Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: January 25, 2007.

David I. Maurstad,

Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–1771 Filed 2–2–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[I.D. 012607D]

RIN 0648–AV19

Fisheries of the Exclusive Economic Zone Off Alaska; Crab Rationalization Program

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

ACTION: Availability of an amendment to a fishery management plan; request for comments.

SUMMARY: On January 12, 2007, the President signed the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, which requires the Secretary of Commerce (Secretary), not later than 90 days after the date of enactment of that Act, to amend the Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs (FMP) to authorize conversion of catcher vessel owner quota shares and processor quota shares to newly created North Region catcher/processor owner quota shares. Proposed Amendment 25 to the FMP would satisfy this requirement. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable laws.

DATES: Comments on the amendment must be submitted on or before April 6, 2007.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Comments may be submitted by:

- Mail: P.O. Box 21668, Juneau, AK 99802;
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK;
- Fax: 907–586–7557; or
- E-mail: *0648–AV19–NOA-KTC25@noaa.gov*. Include in the subject line of the e-mail the following document identifier: KTC 25 NOA. E-mail comments, with or without attachments, are limited to 5 megabytes.
- Webform at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions at that site for submitting comments.

Copies of Amendment 25 and the Environmental Impact Statement (EIS) for the Crab Rationalization Program may be obtained from the NMFS Alaska Region at the address above or from the Alaska Region website at *http://www.fakr.noaa.gov/sustainablefisheries/crab/eis/default.htm*.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, 907–586–7228 or *gretchen.harrington@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that NMFS publish a notice in the **Federal Register** announcing that the FMP amendment is available for public review and comment during the 60-day period beginning on the date the notice is published.

On January 12, 2007, the President signed the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Public Law 109–479), which added a new requirement in section 122(a) for the Secretary, not later than 90 days after the date of enactment of that Act, to amend the FMP to authorize conversion of catcher vessel owner quota shares (CVO QS) and processor quota shares (PQS) to catcher/processor owner quota shares (CPO QS). Proposed Amendment 25 to the FMP, if approved, would satisfy this requirement. The Secretary must approve this FMP amendment by April 12, 2007, to comply with Public Law 109–479.

Crab Rationalization Program (Program)

In implementing the Program in 2005, NMFS initially issued PQS, CVO QS, and CPO QS to eligible applicants. In 2006, NMFS initially issued PQS to the Blue Dutch, LLC, under the requirements of section 417(a) of the Coast Guard and Maritime Transportation Act of 2006 (Coast Guard Act, Public Law 109–241). NMFS may initially issue additional quota share pursuant to ongoing appeal adjudications.

CVO QS represents an exclusive but revocable privilege that provides the holder with an annual allocation to harvest a specific percentage of the total allowable catch (TAC) from a fishery. The annual allocations of TACs, in pounds, are referred to as individual fishing quotas (IFQs). Under the regional requirement, CVO QS is designated by landing region and harvests are required to be delivered either in the North or South region.

PQS represents an exclusive but revocable privilege to receive deliveries of a specific portion of the annual TAC from a fishery. An annual allocation of PQS is referred to as IPQ and expressed in pounds of crab. PQS is regionally designated for processing in the North or South region.

CPO QS represents an exclusive but revocable privilege to harvest a percentage of the TAC and process that crab onboard. Under the Program, CPO QSs do not have regional designations.

The regional designation of CVO QS and PQS preserves the historic geographic distribution of landings in the fisheries. Two regional designations were created for the snow crab (*Chionoecetes opilio*) and Bristol Bay red king crab (*Paralithodes camtschaticus*) fisheries. The North Region consists of all areas in the Bering Sea north of 56°20′ N latitude. The South Region is all other areas. Crab harvested with regionally designated CVO QS is required to be delivered to a processor in the designated region. Likewise, a processor with regionally designated PQS is required to accept delivery of and process crab in the designated region.

Amendment 25

Proposed Amendment 25 to the FMP would comply with Public Law 109–479 by amending the FMP to include an additional provision to the Program. Amendment 25 would authorize an eligible entity and its commonly owned affiliates to combine North PQS and North CVO QS and exchange these shares for newly created North Region CPO QS (North CPO QS). Allowing entities to convert PQS and CVO QS to North CPO QS would allow them to harvest and process crab onboard a catcher processor. Amendment 25 would reduce each eligible entity's operating costs associated with purchasing crab, processing crab on land or in a stationary floater processor, and complying with the Program's arbitration system.

Amendment 25 would authorize, on an annual basis, two types of quota share conversions and defines the entities eligible to make those conversions. First, an eligible entity holding PQS, along with its commonly owned affiliates, could combine any North CVO QS with its North PQS and exchange them for North CPO QS on an annual basis. Entities could do this under the following two conditions: (1) if NMFS initially issued the entity both CPO QS and PQS under the Program, and that PQS, in combination with the PQS of its commonly owned affiliates, is less than 7 percent of the total PQS pool for that year; and (2) if NMFS initially issued the entity CPO QS under the Program and PQS under the Coast Guard Act. An eligible entity would be limited to converting only the PQS that it, along with its commonly owned affiliates, was initially issued by NMFS.

Second, an eligible entity holding CVO QS, along with its commonly owned affiliates, could combine any North PQS with its North CVO QS and exchange them for North CPO QS on an annual basis. The only entity that could do this would be an entity to which NMFS initially issued CPO QS and PQS under the Program, and that PQS, in combination with the PQS of its commonly owned affiliates, is more than 7 percent of the total PQS pool for that year. This eligible entity would be limited to converting only the CVO QS that it, along with its commonly owned affiliates, was initially issued by NMFS.

Eligible entities would receive one unit of North CPO QS in exchange for one unit of North CVO QS and 0.9 units of North PQS. The amount of North CPO QS issued to each entity could not exceed 1 million pounds during any calendar year.

According to the NMFS Official Record, three individual entities are eligible for these new provisions. Yardarm Knot, LLC, and its commonly owned affiliates, and Blue Dutch, LLC, and its commonly owned affiliates, would be eligible for the first type of conversion. Trident Seafoods, and its commonly owned affiliates, would be eligible for the second type of conversion. NMFS can not predict the annual amount of North CPO QS that would be annually issued because the participants would annually elect to exercise this provision and need not request conversion of all CVO QS and PQS held.

While the statutory language does not specifically define which fisheries are subject to this provision, North CPO QS would only be created for the snow crab and Bristol Bay red king crab fisheries, because these were the only fisheries for which the eligible entities were initially issued North PQS and North CVO QS.

Sections 122(b) and (c) of Public Law 109–479 include additional requirements for fees and off-loading for the newly created North CPO QS; however, the statute does not require these requirements to be part of this FMP amendment. Public Law 109–479 requires the holder of North CPO QS to pay a fee of 5 percent of the ex-vessel value of the crab harvested with those shares to any local governmental entities in the North Region, if the PQS used to produce the North CPO QS were originally derived from the processing activities that occurred in a community under the jurisdiction of those local governmental entities. The State of Alaska may collect from the holder of the North CPO QS a fee of 1 percent of the ex-vessel value of the crab harvested with those shares. Additionally, crab harvested with North CPO QS shall be off-loaded in those communities receiving the local governmental entities fee revenue.

Section 122(d) also provides that, as part of its periodic review of the Program, the North Pacific Fishery Management Council may review the effects of allowing the conversion to North CPO QS on communities in the North Region. Under this section, if the Council determines that Amendment 25 adversely affects the communities, the Council may recommend to the Secretary, and the Secretary may approve, changes to the Program

necessary to mitigate those adverse effects.

Section 122(e) requires an additional FMP amendment and rule making to modify the use caps for processing North Region snow crab. Under this section, custom processing arrangements do not count against any use cap for the processing of snow crab in the North Region by a shore-based crab processor's. NMFS issued an enforcement policy on January 19, 2007, that provides guidance to the industry on NMFS' enforcement and interpretation of this section, which is effective until superseded by rule making.

An EIS was prepared for the Program that describes the management background, the purpose and need for the Program, the management alternatives, and the environmental, social, and economic impacts (see **ADDRESSES**). The EIS contains as appendices the Regulatory Impact Review/Initial Regulatory Flexibility Analysis and the Social Impact Assessment prepared for the Program. With Amendment 25, NMFS is continuing to implement the Program.

Public comments are being solicited on proposed Amendment 25 through the end of the comment period (see **DATES**). All comments on the amendment received by that date will be considered in the approval/disapproval decision. Comments received after that date will not be considered. To be considered, comments must be received—not just postmarked or otherwise transmitted—by the close of business on the last day of the comment period. NMFS is developing a separate proposed rule notice to implement Amendment 25. NMFS anticipates implementing Amendment 25 and Public Law 109–479 for the 2007/2008 crab fisheries.

Authority: 16 U.S.C. 1801 *et seq.*; Pub. L. 109-479, 120 Stat. 3575.

Dated: January 30, 2007.

James P. Burgess,

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

[FR Doc. E7–1804 Filed 2–2–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 72, No. 23

Monday, February 5, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: Wednesday, February 21, 2007 (9 a.m. to 3 p.m.).

Location: National Press Club Ballroom, 529 14th Street, NW., Washington, DC 20045.

Please note that this is the anticipated agenda and is subject to change.

U.S. Foreign Assistance and the FY 08 Budget: USAID's Administrator Randall L. Tobias has been invited to speak on the U.S. foreign assistance program. Dirk Dijkerman, Chief Operating Officer, and James Painter, Senior Coordinator for Operational Management, in the Office of the Director of U.S. Foreign Assistance in the U.S. Department of State have been invited to provide an overview of the President's fiscal year 2008 foreign assistance budget.

Afghanistan: James Kunder, USAID's Acting Deputy Administrator has been invited to speak on USAID's programs in Afghanistan.

Global Development Alliance: Daniel Runde, Director of USAID's Global Development Alliance (GDA) initiative has been invited to provide an overview of the GDA since its establishment in 2001. A panel discussion will follow on lessons learned with representatives from private voluntary organizations and the private sector.

The meeting is free and open to the public. Persons wishing to attend the meeting can register online at *http://www.usaid.gov/about_usaid/acvfa* or contact Kristin Holland at * * * or 202–237–0090 extension 10 or Jocelyn Rowe at *jrowe@usaid.gov* or 202–712–4002.

Dated: January 30, 2007.

Jocelyn M. Rowe,

Executive Director, Advisory Committee on Voluntary Foreign Aid (ACVFA), U.S. Agency for International Development.

[FR Doc. E7–1764 Filed 2–2–07; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket # AMS–FV–06–0216; FV07–375]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget (OMB) for an extension of a currently approved information collection for the Reporting and Recordkeeping Requirements Under Regulations Under the Perishable Agricultural Commodities Act, 1930, as amended.

DATES: Comments received by April 6, 2007 will be considered.

ADDRESSES: You may submit written or electronic comments to:

(1) PACA Recordkeeping and Reporting Comments, AMS, F&V Programs, PACA Branch, 1400 Independence Avenue, SW., Room 2095–S, Stop 0242, Washington, DC 20250–0242.

(2) Fax: 202–690–4413

(3) E-mail comments to *Dexter.Thomas@usda.gov.*

(4) Internet: *http://www.regulations.gov.*

Instructions: All comments will become a matter of public record and should be identified as PACA Recordkeeping and Reporting Comments. Comments will be available for public inspection from AMS at the above address or over the AMS Web site at *http://www.ams.usda.gov/fv/paca.htm.* Web site questions can be addressed to the PACA Web master, *Dexter.Thomas@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Reporting and Recordkeeping Requirements Under Regulations (Other than Rules of Practice) Under the Perishable Agricultural Commodities Act, 1930.

OMB Number: 0581–0031.

Expiration Date of Approval: October 31, 2007.

Type of Request: Extension of a currently approved information collection.

Abstract: The PACA was enacted by Congress in 1930 to establish a code of fair trading practices covering the marketing of fresh and frozen fruits and vegetables in interstate or foreign commerce. It protects growers, shippers, and distributors dealing in those commodities by prohibiting unfair and fraudulent trade practices.

The law provides a forum for resolving contract disputes, and a mechanism for the collection of damages from anyone who fails to meet contractual obligations. In addition, the PACA provides for prompt payment to fruit and vegetable sellers and for revocation of licenses and sanctions against firms or principals found to have violated the law's standards for fair business practices. The PACA also imposes a statutory trust that attaches to perishable agricultural commodities received by regulated entities, products derived from the commodities, and any receivables or proceeds from the sale of the commodities. The trust exists for the benefit of produce suppliers, sellers, or agents that have not been paid, and continues until they have been paid in full.

The PACA is enforced through a licensing system. All commission merchants, dealers, and brokers engaged in business subject to the PACA must be licensed. Retailers and grocery wholesalers must renew their licenses every three years. All other licensees have the option of a one, two, or three-year license term. Those who engage in practices prohibited by the PACA may have their licenses suspended or revoked.

The information collected pursuant to OMB Number 0581–0031 is used to administer licensing provisions under the PACA, to adjudicate contract disputes, and for the purpose of enforcing the PACA and the regulations. The purpose of this notice is to solicit comments from the public concerning our information collection.

We estimate the paperwork and time burden of the above referenced information collection to be as follows:

Form FV–211, Application for License: average of .25 hours per application per response.

Form FV–231–1 (or 231–1A, or 231–2, or 231–2A), Application for Renewal or Reinstatement of License: Average of .05 hours per application per response.

Regulations Section 46.13—Letters to Notify USDA of Changes in Business Operations: Average of .05 hours per notice per response.

Regulations Section 46.4—Limited Liability Company Articles of Organization and Operating Agreement: Average of .083 hours with approximately 220 recordkeepers.

Regulations Section 46.18—Record of Produce Received: Average of 5 hours with approximately 18,400 recordkeepers.

Regulations Section 46.20—Records Reflecting Lot Numbers: Average of 8.25 hours with approximately 1,000 recordkeepers.

Regulations Section 46.46(d)(2)—Waiver of Rights to Trust Protection: Average of .25 hours per notice with approximately 100 principals.

Regulations Sections 46.46(f) and 46.2(aa)(11)—Copy of Written Agreement Reflecting Times for Payment: Average of 20 hours with approximately 2,670 recordkeepers.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3.9704 hours per response.

Respondents: Commission merchants, dealers, and brokers engaged in the business of buying, selling, or negotiating the purchase or sale of commercial quantities of fresh and/or frozen fruits and vegetables in interstate or foreign commerce are required to be licensed under the PACA (7 U.S.C. 499(c)(a)).

Estimated Number of Respondents: 14,686.

Estimated Number of Responses: 38,984.

Estimated Number of Responses per Respondent: 2.6545.

Estimated Total Annual Burden on Respondents: 153,650.

Comments are invited 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) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Dexter Thomas, Senior Marketing Specialist, PACA Branch, F & V Programs, AMS, USDA, 1400 Independence Avenue, SW., Room 2095–So. Bldg., Mail Stop 0242, Washington, DC 20250–0242. E-mail—*dexter.thomas@usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: January 30, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–1758 Filed 2–2–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket # AMS–FV–2006–0199; FV–07–301]

United States Standards for Grades of Mangos

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Department of Agriculture (USDA) Agricultural Marketing Service (AMS) is soliciting comments on a proposed revision to the voluntary United States Standards for Grades of Mangos. USDA received a request from a member of the industry to revise the definition of ''well trimmed.'' The change could benefit the fresh mango industry by improving fruit appearance and extending shelf life.

DATES: Comments must be received by April 6, 2007.

ADDRESSES: Interested persons are invited to submit written comments to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 1661 South Building, Stop 0240, Washington, DC 20250–0240; Fax (202) 720–8871, or Internet: *http://www.regulations.gov.* Comments should make reference to the dates and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours. The United States Standards for Grades of Mangos are available either through the address cited above or by accessing the AMS, Fresh Products Branch Web site at: *http://www.ams.usda.gov/fv/fvstand.htm.*

FOR FURTHER INFORMATION CONTACT: Cheri L. Emery, at the above address, telephone number (202) 720–2185, or e-mail address *Cheri.Emery@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), as amended, directs and authorizes the Secretary of Agriculture ''To develop and improve standards of quality, condition, quantity, grade and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.'' AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. The United States Standards for Grades of Fruits and Vegetables that are not requirements of Federal Marketing Orders or U.S. Import Requirements, no longer appear in the Code of Federal Regulations, but are maintained by USDA, AMS, Fruit and Vegetable Programs.

AMS proposed to revise the voluntary United States Standards for Mangos using the procedures that appear in Part 36, Title 7 of the Code of Federal Regulations (7 CFR part 36). The standards were developed February 2006.

Background

AMS received a petition from a grower/packer/importer requesting a revision to the United States Standards for Grades of Mangos. The petitioner requested a revision to the definition of ''well trimmed.'' The standards currently define ''well trimmed'' as: ''the stem is neatly clipped or broken off at a point not more than ½ inch beyond the point of attachment''. The petitioner requested an increase to the allowable length of the attached stem to 1 inch from the point of attachment. The petitioner stated a change is warranted because a longer stem, up to 1 inch in length, would permit healing of the stem end and reduce the amount of latex that leaks out of the fruit. The petitioner further stated incidences of ''sunken stem end'' would be reduced significantly by allowing a longer stem. A revision to the definition would read as follows: ''Well trimmed'' means the stem is neatly clipped or broken off at a point not more than 1 inch beyond the point of attachment.

The official grade of a lot of mangos covered by these standards will be determined by the procedures set forth in the Regulations Governing Inspection, Certification, and Standards of Fresh Fruits, Vegetables and Other Products (7 CFR 51.1 to 51.61).

AMS is soliciting comments on the proposed revision to the United States Standards for Grades of Mangos. This notice provides for a 60-day comment period for interested parties to comment on the requested change to the standards.

Authority: 7 U.S.C. 1621–1627.

Dated: January 30, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–1760 Filed 2–2–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket # AMS–FV–2007–0003; FV–06–307]

United States Standards for Grades of Mushrooms

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; withdrawal.

SUMMARY: The Agricultural Marketing Service (AMS) is withdrawing the notice soliciting comments on its proposal to amend the voluntary United States Standards for Grades of Mushrooms. After reviewing and considering the comments received, the Agency has decided not to proceed with this action.

EFFECTIVE DATE: February 5, 2007.

FOR FURTHER INFORMATION CONTACT: Vincent J. Fusaro, Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, (202) 720–2185.

Background

At a meeting with the Fruit and Vegetable Industry Advisory Committee, AMS was asked to review all the fresh fruit and vegetable grade standards for their usefulness in serving the industry. AMS had identified the United States Standards for Grades of Mushrooms for a possible revision. The United States Standards for Grades of Mushrooms were last amended July 15, 1966.

On May 26, 2006, a notice requesting comments on the possible revision of the standards to allow the standards to be used for open veil types of mushrooms; include small, medium, and large size classifications for open veil types of mushrooms; revise the current size classifications (small to medium and large) as well as an addition of a button and jumbo size for the closed veil types of mushrooms; and eliminate the unclassified category was published in the **Federal Register** (71 FR 30366) with the comment period ending July 25, 2006.

Two comments were received during the official period for comment. One comment from a consumer raised a number of concerns, including establishing new standards for fungi for consumption. Another comment from a national trade association representing domestic growers, buyer/shippers and processors of mushrooms, and those who provide services to the mushroom industry did not support revising the standard, stating that there was no consensus among growers, shippers, or customers as to industry-wide terms such as button, small, medium, large, or jumbo. This comment also questioned the use of the term ''open veiled'' and whether all such varieties would be covered by the proposed standards. Developing new standards for fungi for consumption is beyond the scope of what AMS proposed. Further, given the comment concerning the lack of consensus among the industry concerning the size terminology, we believe that the standards should not be changed at this time.

After reviewing and considering the comments received, the Agency has decided not to proceed with the action. Therefore, the notice published May 26, 2006, (71 FR 30366) is withdrawn.

Authority: 7 U.S.C. 1621–1627.

Dated: January 30, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–1761 Filed 2–2–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket # AMS–FV–2006–0204; FV–06–316]

United States Standards for Grades of Oranges (California and Arizona) and/or United States Standards for Grades of Grapefruit (California and Arizona)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; withdrawal.

SUMMARY: The Agricultural Marketing Service (AMS) is withdrawing the notice soliciting comments on its proposal to amend the voluntary United States Standards for Grades of Oranges (California and Arizona) and/or United States Standards for Grades of Grapefruit (California and Arizona). After reviewing and considering the comment received, the Agency has decided not to proceed with this action.

EFFECTIVE DATE: February 5, 2007

FOR FURTHER INFORMATION CONTACT: Cheri L. Emery, Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1661 South Building, STOP 0240, Washington, DC 20250–0240, Fax (202) 720–8871 or call (202) 720–2185; E-mail *Cheri.Emery@usda.gov.* The United States Standards for Grades of Oranges and/or United States Standards for Grades of Grapefruit are available either through the address cited above or by accessing the AMS, Fresh Products Branch Web site at: *http://www.ams.usda.gov/standards/stanfrfv.htm.*

Background

AMS had identified the United States Standards for Grades of Oranges (California and Arizona) and/or United States Standards for Grades of Grapefruit (California and Arizona) for possible revisions to reflect current marketing trends. The standards were last revised in 1999. On August 25, 2006, AMS published a notice in the **Federal Register** (71 FR 50383) soliciting comments on any possible revisions to the United States Standards for Grades of Oranges (California and Arizona) and/or United States Standards for Grades of Grapefruit (California and Arizona). The comment period ended October 24, 2006.

During that sixty-day comment period, one comment was received. A California growers' association asked AMS not to proceed with any changes to the orange standards at this time because it was engaged in a consumer research project specific to grades and standards that will continue to run an additional two years. There were no comments concerning any revisions to the grapefruit standards. The comment is available by accessing AMS, Fresh Products Branch Web site at: *http://www.ams.usda.gov/fv/fpbdocketlist.htm.*

After reviewing and considering the comment received, the Agency has decided not to proceed with the action. Therefore, the notice published August 25, 2006, (71 FR 50383) is withdrawn.

Authority: 7 U.S.C. 1621–1627.

Dated: January 30, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–1759 Filed 2–2–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket # AMS–FV–2006–0203; FV–06–306]

United States Standards for Grades of Peppers (Other Than Sweet Peppers)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) is establishing voluntary United States Standards for Grades of Peppers (Other Than Sweet Peppers). The standards will provide industry with a common language and uniform basis for trading, thus promoting the orderly and efficient marketing of peppers that are not sweet peppers.

EFFECTIVE DATE: March 7, 2007.

FOR FURTHER INFORMATION CONTACT: Cheri L. Emery, Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 1661, South Building, Stop 0240, Washington, DC 20250–0240, (202) 720–2185, fax (202) 720–8871, or e-mail *Cheri.Emery@usda.gov.*

The United States Standards for Grades of Peppers (Other Than Sweet Peppers) are available either from the above address or by accessing the AMS, Fresh Products Branch Web site at: *http://www.ams.usda.gov/standards/stanfrfv.htm.*

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), as amended, directs and authorizes the Secretary of Agriculture ''To develop and improve standards of quality, condition, quantity, grade and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.'' AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. The United States Standards for Grades of Fruits and Vegetables that are not requirements of Federal Marketing Orders or U.S. Import Requirements, no longer appear in the Code of Federal Regulations, but are maintained by USDA, AMS, Fruit and Vegetable Programs.

AMS is establishing voluntary United States Standards for Grades of Peppers (Other Than Sweet Peppers) using the procedures that appear in Part 36, Title 7 of the Code of Federal Regulations (7 CFR part 36).

Background

AMS published a notice in the **Federal Register** (71 FR 9514), on February 24, 2006, soliciting comments on the possible development of United States Standards for Grades of Peppers (Other Than Sweet Peppers). In response to the request for comments, AMS received two comments, one comment was from an industry group and the other from a shipper. Both comments were in support of developing the standards. The comments are available by accessing AMS, Fresh Products Branch Web site at: *http://www.ams.usda.gov/fv/fpbdocketlist.htm.*

On July 24, 2006, AMS published a second notice in the **Federal Register** (71 FR 41755–41756), soliciting comments on the proposed voluntary United States Standards for Grades of Peppers (Other Than Sweet Peppers). The proposed standards contained U.S. Fancy, U.S. No. 1, and U.S. No. 2 grades and tolerances for each grade. In addition, there were ''Application of Tolerances'' and ''Size'' sections. AMS also defined ''Injury,'' ''Damage,'' and ''Serious Damage,'' along with specific basic requirements and definitions for defects, definitions for color, diameter, and length. Comments were not received in connection with the second notice.

The adoption of the U.S. grade standards will provide the pepper (other than sweet peppers) industry with U.S. grade standards similar to those extensively in use by the fresh produce industry to assist in orderly marketing of other commodities. Accordingly, AMS is adopting the United States Standards for Grades of Peppers (Other Than Sweet Peppers) as proposed in the July 24, 2006, **Federal Register** notice.

The official grades of a lot or shipment of fresh vegetables covered by U.S. standards is determined by the procedures set forth in the Regulations Governing Inspection, Certification, and Standards of Fresh Fruits, Vegetables and Other Products (7 CFR 51.1 to 51.61).

The United States Standards for Grades of Peppers (Other Than Sweet Peppers) will become effective 30 days after publication in the **Federal Register**.

Authority: 7 U.S.C. 1621–1627.

Dated: January 30, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–1762 Filed 2–2–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0195]

Monsanto Company; Availability of Petition and Environmental Assessment for Determination of Nonregulated Status for Soybean Genetically Engineered for Glyphosate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has received a petition from Monsanto Company seeking a determination of nonregulated status for soybean designated as MON 89788, which has been genetically engineered for tolerance to the herbicide glyphosate. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. In accordance with those regulations, we are soliciting comments on whether this soybean presents a plant pest risk. We are also making available for public comment an environmental assessment for the proposed determination of nonregulated status.

DATES: We will consider all comments we receive on or before April 6, 2007.

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

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2006–0195 to submit or view public comments and to view supporting and related materials available electronically. 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.

• *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0195, 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–2006–0195.

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: Dr. Virgil Meier, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–3363, *virgil.d.meier@aphis.usda.gov.* To obtain copies of the petition or environmental assessment (EA), contact Ms. Cynthia Eck at (301) 734–0667; *cynthia.a.eck@aphis.usda.gov.* The petition and EA may be viewed on the Internet at *http://www.aphis.usda.gov/brs/aphisdocs/06_17801p.pdf* and *http://www.aphis.usda.gov/brs/aphisdocs/06_17801p_ea.pdf.*

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

On June 27, 2006, APHIS received a petition seeking a determination of nonregulated status (APHIS Petition Number 06–178–01p) from Monsanto Company of St. Louis, MO (Monsanto), for soybean (*Glycine max* L.) designated as transformation event MON 89788, which has been genetically engineered for tolerance to the herbicide glyphosate, stating that soybean line MON 89788 does not present a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340.

As described in the petition, MON 89788 soybean plants have been genetically engineered to express a 5-enolpyruvylshikimate-3-phosphate synthase protein from *Agrobacterium* sp. strain CP4 (CP4 EPSPS), which confers tolerance to the herbicide glyphosate. Expression of the added gene is controlled, in part, by gene sequences derived from Arabidopsis thaliana and the plant pathogen figwort mosaic virus. The *Agrobacterium tumefaciens* transformation method was used to transfer the added genetic material into the recipient parental soybean line A3244.

MON 89788 soybean plants have been considered regulated articles under the regulations in 7 CFR part 340 because they contain gene sequences from plant pathogens. MON 89788 soybean plants have been field tested in the United States since 2001 under notifications authorized by APHIS. In the process of reviewing the notifications for field trials of the subject soybean plants, APHIS determined that the vectors and other elements were disarmed and that trials, which were conducted under conditions of reproductive and physical confinement or isolation, would not present a risk of plant pest introduction or dissemination.

APHIS has prepared an environmental assessment (EA) in which it presents three alternatives based on its analyses of data submitted by Monsanto, a review of other scientific data, and field tests conducted under APHIS oversight. APHIS may: (1) Take no action, (2) deregulate MON 89788 soybeans, or (3) deregulate MON 89788 soybeans in part.

In section 403 of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), ''plant pest'' is defined as any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of the foregoing. APHIS views this definition broadly to cover direct or indirect injury, disease, or damage not just to agricultural crops, but also to other plants, for example, native species, as well as organisms that may be beneficial to plants, such as honeybees.

The U.S. Environmental Protection Agency (EPA) is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 *et seq.*). FIFRA requires that all pesticides, including herbicides, be registered prior to distribution or sale, unless exempt from EPA regulation. Under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended (21 U.S.C. 301 *et seq.*), pesticides added to (or contained in) raw agricultural commodities generally are considered to be unsafe unless a tolerance or exemption from tolerance has been established. Residue tolerances for pesticides are established by the EPA under the FFDCA, and the Food and Drug Administration (FDA) enforces tolerances set by the EPA. Because of the similarity in tolerance to glyphosate for MON 89788 and the previously deregulated event MON–04032–6, Monsanto has not requested a label change for the application of glyphosate to MON 89788 soybeans.

The FDA's policy statement concerning regulation of products derived from new plant varieties, including those genetically engineered, was published in the **Federal Register** on May 29, 1992 (57 FR 22984–23005). Under this policy, FDA uses what is termed a consultation process to ensure that human and animal feed safety issues or other regulatory issues (*e.g.*, labeling) are resolved prior to commercial distribution of a bioengineered food. Monsanto submitted a food and feed safety and nutritional assessment summary to the FDA for the MON 89788 soybean. A final FDA decision is pending.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the proposed determination of nonregulated status for MON 89788, an EA has been prepared. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations

implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

In accordance with § 340.6(d) of the regulations, we are publishing this notice to inform the public that APHIS will accept written comments regarding the petition for a determination of nonregulated status from interested or affected persons for a period of 60 days from the date of this notice. We are also soliciting written comments from interested or affected persons on the EA prepared to examine any environmental impacts of the proposed determination for the subject soybean event. The petition and the EA and any comments we receive are available for public review, and copies of the petitions and the EA are available as indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

After the comment period closes, APHIS will review the data submitted by the petitioner, all written comments received during the comment period, and any other relevant information. After reviewing and evaluating the comments on the petition and the EA and other data and information, APHIS will furnish a response to the petitioner, either approving the petition in whole or in part, or denying the petition. APHIS will then publish a notice in the **Federal Register** announcing the regulatory status of Monsanto's glyphosate-tolerant soybean and the availability of APHIS' written decision.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.8, and 371.3.

Done in Washington, DC, this 30th day of January 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–1793 Filed 2–2–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0190]

Availability of an Environmental Assessment for a Proposed Field Release of Genetically Engineered Safflower

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment has been prepared for a proposed field release involving a transgenic safflower line that has been genetically engineered to express, within the seeds, a carp growth hormone fused to an *Arabidopsis oleosin*. The purpose of this field release is to obtain a seed increase of material harvested in Chile for future use as a supplement in aquaculture meal. We are making the environmental assessment available to the public for review and comment.

DATES: We will consider all comments received on or before March 7, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2006–0190 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instruction 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.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0190, 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–2006–0190.

Reading Room: You may read the environmental assessment (EA) and any comments 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. The EA is also available on the Internet at *http://aphis.usda.gov/brs/aphisdocs/06_25001r_ea.pdf.*

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Patricia Beetham, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–0664. To obtain copies of the environmental assessment, contact Ms. Cynthia Eck at (301) 734–0667; e-mail: *cynthia.a.eck@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.'' A permit must be obtained or a notification acknowledged before a regulated article may be introduced. The regulations set forth the permit application requirements and the notification procedures for the importation, interstate movement, or release in the environment of a regulated article.

On September 5, 2006, the Animal and Plant Health Inspection Service (APHIS) received a permit application (APHIS No. 06–250–02r) from SemBioSys Genetics, Inc. of West Sacramento, CA, for a field trial using a line of transgenic safflower. Permit application 06–250–02r describes a transgenic safflower (*Carthamus tinctorius*) cultivar that has been genetically engineered to express a fusion protein consisting of oleosin from *Arabidopsis thaliana* and carp growth hormone (somatotropin) from *Cyprinus carpio* exclusively within its seeds. Expression of the fusion protein is controlled by the phaseolin promoter and terminator sequences from *Phaseolus vulgaris* L. (common bean). Constructs were inserted into the recipient organisms via a disarmed *Agrobacterium tumefaciens* vector system. The seed from these safflower plants will be ground and incorporated into aquaculture feed to be used in experimental fish feeding studies by SemBioSys and is not for commercial production.

The subject safflower is considered a regulated article under the regulations in 7 CFR part 340 because it has been genetically engineered using the recombinant DNA technique using a vector derived from the plant pest *Agrobacterium tumefaciens.*

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts and plant pest risks associated with the proposed release of these transgenic safflowers, an environmental assessment (EA) has been prepared. The EA was prepared in accordance with: (1) The National Environmental Policy Act

of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Copies of the EA are available from the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 30th day of January 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–1790 Filed 2–2–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Revised Land and Resource Management Plan; Lake Tahoe Basin Management Unit, South Lake Tahoe, CA

ACTION: Notice of initiation to revise the Lake Tahoe Basin Management Unit Land and Resource Management Plan.

SUMMARY: The Forest Service will revise the Lake Tahoe Basin Management Plan (hereafter referred to as the Forest Plan). This notice describes the documents available for review and how to obtain them; summarizes the need to change the Forest Plan and the initial scope of revision based upon management review and determination; provides information concerning public participation and collaboration; and includes the names and addresses of agency officials who can provide additional information.

ADDRESSES: Send written comments to: Forest Plan Revision—LTBMU, 35 College Drive, South Lake Tahoe, CA 96150. E-mail: *comments-pacificsouthwest-ltbmu@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Todd Chaponot at (530) 543–2742 or Robert King at (530) 543–2619; or e-mail the revision team at : *comments-pacificsouthwest-ltbmu@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Documents Available for Review

The Comprehensive Evaluation Report is the Forest Plan revision analysis document that provides an evaluation of current ecological, economic, and social conditions and trends; these contribute to sustainability within the Forest Service lands managed by the Lake Tahoe Basin Management Unit (LTBMU). Publication and review of the Comprehensive Evaluation Report (CER) formally launches LTBMU's Forest Plan Revision process. The information detailed in the CER analysis, and further distilled within the forest supervisor's management review and revision theme areas are provided for public and agency review and comment. This document is now available for review (see Public Participation and Collaboration subtopic).

Components of the Forest Plan

As required under the National Forest Management Act, Terri Marceron, Forest Supervisor, LTBMU has made a determination that conditions exist that warrant a revision of the existing 1988 Forest Plan (see Forest Supervisor's Determination—Preliminary Need for Change Topics). The Management Review is the preamble to the Comprehensive Evaluation Report document; it describes the scope of the plan revision, rationale, and formal determination to proceed with revision of the LTBMU Forest Plan. The information contained in the CER, in concert with information acquired from substantive comments, will be used to structure a revised plan. The revised Forest Plan will include the following components: Desired conditions, objectives, guidelines, suitability of areas and special areas (Reference: CFR 219.7).

Forest Supervisor's Determination—Preliminary Need for Change Topics

Much of the direction contained in the 1988 Forest Plan is still valid. The parts of the plan that are working well will be carried forward into the revised Plan, limiting the revision to areas where new regulations and policy, new science, resource information, and changing social, economic, and ecologic conditions and trends have created a need for updated guidance. Through the public participation and collaboration process the Forest Supervisor has determined that the Forest Plan Revision will focus on four preliminary themes:

- Ecosystem restoration,
- Recreation management,
- Land use,
- Planning and adaptive management.

(Reference: CER Management Review; and CER Chapter 2)

Comment Requested

The Forest Service is seeking public comments about the appropriateness of the specific preliminary Need for Change topics identified in the CER document. Public comments should fall within two specific areas: (1) Whether the scope and appropriate representation of the four major theme areas identified in the CER is addressed adequately, and with the appropriate science; and (2) Specific issue areas of importance to the public that were not addressed adequately in the information presented in the full CER document. Substantive comments received by 19 March 2007 will be of the most value in evaluating public response to the adequacy of the need for change themes outlined in the Comprehensive Evaluation Report.

Planning Process Schedule

The revision process for the Lake Tahoe Basin Management Unit officially begins in January 2007 with the publication of this Notice of Initiation in the **Federal Register**. The final revised Forest Plan is scheduled to be issued for pre-decisional review in July 2008. Final approval of the revised LTBMU Forest Plan is scheduled to occur October 2008. As of the publication date of this notice, it is the intent of the Forest Supervisor, Terri Marceron, consistent with national Forest Service policy, that the revised forest plan will be published as a Categorical Exclusion (Reference: Forest Service Handbook FSH 1909.12, Ch. 30, Jan. 31, 2006).

Responsible Official

Terri Marceron, Forest Supervisor, Lake Tahoe Basin Management Unit at 35 College Drive, South Lake Tahoe, CA 96150.

Public Participation and Collaboration

The revision process is designed to provide continued opportunities for public collaboration in the management of public land in the Lake Tahoe Basin and provide open participation in the development of the revised Forest Plan. Pursuant to 36 CFR 219.13(a), only parties that participate in the planning process through the submission of written comments can submit an objection upon publication of the revised Forest Plan decision (see Planning Process Schedule). For additional information on the Forest Plan revision processes, access the Lake Tahoe Basin Management Web site at: *http://www.fs.fed.us/r5/ltbmu/projects/*. Likewise, interested members of the public can request to receive LTBMU Forest Plan revision information updates via U.S. Mail delivery, by mailing a request to: Forest Plan Revision—LTBMU, 35 College Drive, South Lake Tahoe, CA 96150, e-mailing:

comments-pacificsouthwest-ltbmu@fs.fed.us, or phoning the Lake Tahoe Basin Management Unit: (530) 543–2600.

Dated: January 29, 2007.

Terri Marceron,

Forest Supervisor, Lake Tahoe Basin Management Unit.

[FR Doc. 07–475 Filed 2–2–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on February 27 and 28, 2007, 9 a.m., at the Space and Naval Warfare Systems Center (SPAWAR), Building 33, Cloud Room, 53560 Hull Street, San Diego, California 92152. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Tuesday, February 27

Open Session

1. Opening Remarks and Introductions.
2. Remarks from the Bureau of Industry and Security.
3. Graphics Processors.
4. High Performance Computer Market in Asia.
5. Encryption.
6. Planning for Comprehensive Review of the Commerce Control List (CCL).
7. 3A2 Instrumentation.

Wednesday, February 28

Open Session

8. 3A2 Instrumentation (Continuation).

Wednesday, February 28

Closed Session

9. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 section 10(a)(1) and 10(a)(3).

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to Ms. Yvette Springer at *Yspringer@bis.doc.gov*.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 21, 2006, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 section (10)(d)), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 section 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: January 31, 2007.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 07–489 Filed 2–2–07; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–863

Honey from the People's Republic of China: Initiation of New Shipper Antidumping Duty Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 5, 2007.

SUMMARY: On December 28, 2006, the Department of Commerce (''the Department'') received a request from QHD Sanhai Honey Co., Ltd. (''QHD Sanhai'') to conduct a new shipper review of the antidumping duty order on honey from the People's Republic of China (''PRC''). We have determined that this request meets the statutory and regulatory requirements for the initiation of a new shipper review.

FOR FURTHER INFORMATION CONTACT: Scot Fullerton or Christopher Riker, 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) 482–1386 or (202) 482–3441, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department received a timely request from QHD Sanhai in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR 351.214 (c), for a new shipper review of the antidumping duty order on honey from the PRC, which has a December anniversary month. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Honey from the People's Republic of China*, 66 FR 63670 (December 10, 2001). QHD Sanhai identified itself as a producer and exporter of honey. As required by 19 CFR 351.214(b)(2)(i) and (iii)(A), QHD Sanhai certified that it did not export honey to the United States during the period of investigation (''POI''), and that it has never been affiliated with any exporter or producer which exported honey to the United States during the POI. Furthermore, the company also certified that its export activities are not controlled by the government of the PRC, satisfying the requirements of 19 CFR 351.214(b)(2)(iii)(B).

Pursuant to 19 CFR 351.214(b)(2)(iv), QHD Sanhai submitted documentation establishing the date on which the subject merchandise was first entered for consumption in the United States, the volume of that first shipment and any subsequent shipments, and the date of the first sale to an unaffiliated customer in the United States.

The Department conducted Customs database queries and analyzed Customs entry packages to confirm that the shipments made by QHD Sanhai had officially entered the United States via assignment of an entry date in the Customs database by U.S. Customs and Border Protection (''CBP''). In addition, the Department confirmed the existence of QHD Sanhai and its U.S. customer.

Initiation of Review

In accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), and based on information on the record, we are initiating a new shipper review for QHD Sanhai. *See* Memorandum to the File through James C. Doyle, Director, AD/CVD Operations, Office 9, Import Administration, from Scot Fullerton, Senior Case Analyst, AD/CVD Operations, Office 9, Import Administration, regarding *Initiation of Antidumping Duty New Shipper Review: Honey from the People's Republic of*

China (January 29, 2007). We intend to issue the preliminary results of this review not later than 180 days after the date on which this review was initiated, and the final results of this review within 90 days after the date on which the preliminary results were issued.

Pursuant to 19 CFR 351.214(g)(1)(i)(A), the period of review (''POR'') for a new shipper review, initiated in the month immediately following the anniversary month, will be the 12-month period immediately preceding the anniversary month. Therefore, the POR for the new shipper review of QHD Sanhai is December 1, 2005, through November 30, 2006.

In cases involving non–market economies, the Department requires that a company seeking to establish eligibility for an antidumping duty rate separate from the country–wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities. *See Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). Accordingly, we will issue a questionnaire to QHD Sanhai, including a separate rates section. The review will proceed if the responses provide sufficient indication that QHD Sanhai is not subject to either *de jure* or *de facto* government control with respect to its exports of honey. However, if QHD Sanhai does not demonstrate its eligibility for a separate rate, then the company will be deemed not separate from other companies that exported during the POI and the new shipper review will be rescinded as to the company.

Interested parties that require access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act, 19 CFR 351.214(d), and 19 CFR 351.221(c)(1)(i).

Dated: January 29, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–1809 Filed 2–2–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–475–818; A–489–805)

Notice of Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders: Certain Pasta from Italy and Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 2, 2006, the Department of Commerce (''the Department'') initiated five-year (''sunset'') reviews of the antidumping duty orders on certain pasta (''pasta'') from Italy and Turkey (71 FR 57921) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of notices of intent to participate and substantive comments filed on behalf of the domestic interested parties, and an untimely response from a respondent interested party in the sunset review of Turkey, the Department conducted expedited (120-day) sunset reviews of these antidumping duty orders. As a result of these reviews, the Department finds that revocation of the antidumping duty orders on pasta from Italy and Turkey would be likely to lead to continuation or recurrence of dumping at the levels indicated in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: February 5, 2007.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Brandon Farlander, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5973 or (202) 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 2, 2006, the Department initiated sunset reviews of the antidumping duty orders on pasta from Italy and Turkey (71 FR 57921), pursuant to section 751(c) of the Act. *See Initiation of Five-year (''Sunset'') Reviews*, 71 FR 57921 (October 2, 2006). On October 17, 2006, the Department received notices of intent to participate on behalf of New World Pasta Company, Dakota Growers Pasta Company, A. Zerga's Sons, Inc., Philadelphia Macaroni Company, and American Italian Pasta Company (collectively, ''domestic interested parties''), within the applicable deadline specified in 19 CFR 351.218(d)(1)(i). *See* Letter of Domestic Party Notice of Intent to Participate - Sunset Review of the Antidumping Duty Order on Certain Pasta from Italy, dated October 17, 2006, and Domestic Party Notice of Intent to Participate - Sunset Review of the Antidumping Duty Order on Certain Pasta from Turkey, dated October 17, 2006. The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as producers of pasta in the United States. On November 1, 2006, the Department received complete substantive responses from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received one substantive response from a respondent interested party in these proceedings; however, the response was returned because it was submitted after the November 1, 2006, deadline. *See* Letter from Oba Makarnacilik Sanayi ve Ticaret A.S. to the Secretary of Commerce, dated November 7, 2006. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department conducted expedited, 120-day, sunset reviews of these antidumping duty orders.

Scope of Orders

Italy (A–475–818)

Imports covered by the antidumping duty order on pasta from Italy include shipments of certain non–egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this order is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of this order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non–egg dry pasta containing up to two percent egg white. Also excluded from the order on pasta from Italy are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Instituto Mediterraneo Di Certificazione, by Bioagricoop Scrl, by QC&I International Services, by Ecocert Italia or by Consorzio per il Controllo dei Prodotti Biologici, by Associazione Italiana per l'Agricoltura Biologica, or by Instituto per la Certificazione Etica e Ambientale (''ICEA'') are also excluded from this order.

The merchandise subject to the antidumping duty order on pasta from

Italy is currently classifiable under item 1902.19.20 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Scope Rulings:

The Department has issued the following scope rulings:
(1) On August 25, 1997, the Department issued a scope ruling, finding that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the order. *See* Memorandum from Edward Easton to Richard Moreland, dated August 25, 1997, on file in the Central Records Unit (''CRU'') of the main Commerce Building, Room B–099.
(2) On July 30, 1998, the Department issued a scope ruling, finding that multipacks consisting of six one–pound packages of pasta that are shrink–wrapped into a single package are within the scope of the order. *See* letter from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Import Administration, to Barbara P. Sidari, Vice President, Joseph A. Sidari Company, Inc., dated July 30, 1998, on file in the CRU.
(3) On October 23, 1997, the petitioners filed a request that the Department initiate an anti–circumvention investigation against Barilla, an Italian producer and exporter of pasta. On October 5, 1998, the Department issued a final determination that, pursuant to section 781(a) of the Act, Barilla was circumventing the antidumping duty order by exporting bulk pasta from Italy which it subsequently repackaged in the United States into packages of five pounds or less for sale in the United States. *See* Anti–circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order, 63 FR 54672 (October 13, 1998) (Barilla Circumvention Inquiry).
(4) On October 26, 1998, the Department self–initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances may be within the scope of the order. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing up to (and including) five pounds four ounces, and so labeled, is within the scope of the order. *See* Memorandum from John Brinkmann to Richard Moreland, dated May 24, 1999 on file in the CRU.

Turkey (A–489–805)

Imports covered by the antidumping duty order on pasta from Turkey include shipments of certain non–egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this order is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions. Excluded from the scope of this order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non–egg dry pasta containing up to two percent egg white.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the HTSUS. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Scope Ruling:

On October 26, 1998, the Department self–initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances may be within the scope of the orders. On May 24, 1999 we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing up to (and including) five pounds four ounces, and so labeled, is within the scope of the order. *See* Memorandum from John Brinkmann to Richard Moreland, dated May 24, 1999, on file in the CRU.

Analysis of Comments Received

All issues raised by parties to these sunset reviews are addressed in the *Issues and Decision Memorandum Expedited Sunset Reviews of the Antidumping Duty Orders on Certain Pasta from Italy and Turkey* (''Decision Memorandum'') from Stephen A. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated January 30, 2007, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail were the orders revoked. Parties may find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum which is on file in the CRU. In addition, a complete version of the Decision Memorandum may be accessed directly on the Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on pasta from Italy and Turkey would likely lead to continuation or recurrence of dumping at the following weighted–average percentage margins:

Manufacturers/Exporters/Producers	Weighted-average margin (percent)
Italy.	
Arrighi S.p.A. Industrie Alimentari	21.34
La Molisana Industrie Alimentari S.p.A.	14.78
Liguori Pastificio Dal 1820 S.p.A.	12.41
Pastifico Fratelli Pagani S.p.A	18.30
All Others[1]	12.09
Turkey.	
Filiz Gida Sanayi ve Ticaret A.S.	63.29
Gidasa Sabanci Gida Sanayi ve Ticaret A.S.[2]	60.87

Manufacturers/Exporters/Producers	Weighted-average margin (percent)
All Others	60.87

[1] Does not apply to 1) CO.R.EX S.p.A.; 2) F.lli De Cecco di Filippo Fara San Martino S.p.A.; 3) Delverde S.r.l. and its affiliate, Tamma Industrie Alimentari di Capitanata S.r.l.; 4) De Matteis Agroalimentare S.p.A.; 5) Pastificio Guido Ferrara S.r.l.; 6) Pasta Lensi S.r.l. (formerly Italian American Pasta Company); 7) N. Puglisi & F. Industria Paste Alimentari; or 8) Pastificio Antonio Pallante S.r.l. and its affiliate Vitelli Foods LLC because these companies are excluded from the order.

[2] Gidasa Sabanci Gida Sanayi ve Ticaret A.S. is the successor-in-interest to Maktas Makarnacilik ve Ticaret A.S., a respondent in the original investigation.

This sunset review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: January 30, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–1811 Filed 2–2–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–851)

Notice of Partial Extension of Time Limit for Final Results of Antidumping Duty Administrative Review: Certain Preserved Mushrooms from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

EFFECTIVE DATE: February 5, 2007.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Terre Keaton Stefanova, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482–1766 or (202) 482–1280, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 2006, the Department of Commerce (''the Department'') published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (''PRC''), covering the period February 1, 2005, through January 31, 2006. *See Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 64930 (November 6, 2006). The current deadline for the final results in this review is March 6, 2007.

Partial Extension of Time Limits for Final Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to issue the final results of the review of an antidumping duty order within 120 days after the date on which the preliminary results are published in the **Federal Register**. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results to not later than 300 days from the date of publication of the preliminary results if the preliminary results deadline was unextended (which is the case in this review).

The Department finds that it is appropriate to provide the interested parties more time to submit publicly available information on certain inputs used to produce the subject merchandise for consideration in the final results of this review. Therefore, it is not practicable to complete the final results of this review within the current time frame.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is partially extending the time limit for completion of the final results of this review until August 3, 2007, which is 270 days after the date on which the notice of the preliminary results was published in the **Federal Register**.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777 (i)(1) of the Act.

Dated: January 29, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–1807 Filed 2–2–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–533–813

Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On November 6, 2006, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on certain preserved mushrooms from India covering the period February 1, 2005, through January 31, 2006. This administrative review covers one manufacturer/exporter, Agro Dutch Industries, Ltd. (''Agro Dutch'').

No interested party commented on the preliminary results. We have made no changes to the margin calculation. Therefore, the final results do not differ from the preliminary results. The final weighted–average dumping margin for the reviewed firm is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: February 5, 2007.

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova or David J. Goldberger, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482- 1280 or (202) 482–4136, respectively.

SUPPLEMENTARY INFORMATION:

Background

This administrative review of the antidumping duty order on certain preserved mushrooms from India covers one manufacturer/exporter: Agro Dutch. The period of review (''POR'') is February 1, 2005, through January 31, 2006.

On November 6, 2006, the Department of Commerce (''the Department'') published the preliminary results of this administrative review. *See Certain Preserved Mushrooms from India:*

Preliminary Results of Antidumping Duty Administrative Review, 71 FR 64938 (''Preliminary Results''). We invited interested parties to comment on the preliminary results of review. No interested party submitted comments. We have conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (''the Act'').

Scope of the Order

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis*. ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms''; (3) dried mushrooms; (4) frozen mushrooms; and (5) ''marinated,'' ''acidified'' or ''pickled'' mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this order is currently classifiable under subheadings 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153 and 0711.51.0000 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order dispositive.

Final Results of Review

We determine that the following weighted–average margin percentage exists:

Manufacturer/exporter	Margin (percent)
Agro Dutch Industries, Ltd.	0.61

Assessment

The Department shall determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212(b). With respect to Agro Dutch, we calculated importer–specific assessment rates for the subject merchandise by aggregating the dumping margins calculated for all the U.S. sales examined and dividing this amount by the total entered value of the sales examined. Pursuant to 19 CFR 351.106(c)(2), 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 review is above *de minimis* (*i.e.*, is not less than 0.50 percent). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the company included in these final results of review for which the reviewed company did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the ''All Others'' rate if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for Agro Dutch will be 0.61 percent; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less–than-fair–value (''LTFV'') investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.30 percent. This rate is the ''All Others'' rate from the LTFV investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

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 antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/ destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: January 30, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–1810 Filed 2–2–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–806]

Certain Pasta From Turkey: Final Results of Expedited Five-Year (''Sunset'') Review of the Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 2, 2006, the Department of Commerce (''the Department'') published in the **Federal Register** the notice of initiation of the second five-year sunset review of the countervailing duty order on certain pasta (''pasta'') from Turkey, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-year (''Sunset'') Reviews,* 71 FR

57921 (October 2, 2006) *(''Second Sunset Review'').* The Department has conducted an expedited sunset review of this order pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). As a result of this sunset review, the Department finds that revocation of the countervailing duty order is likely to lead to continuation or recurrence of a countervailable subsidy at the levels indicated in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: February 5, 2007.

FOR FURTHER INFORMATION CONTACT: Audrey R. Twyman or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482–3534 or (202) 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

The countervailing duty order which covers pasta from Turkey was published in the **Federal Register** on July 24, 1996. *See Notice of Countervailing Duty Order: Certain Pasta (''Pasta'') From Turkey,* 61 FR 38546 (July 24, 1996). On October 2, 2006, the Department initiated the second sunset review of this order, pursuant to section 751(c) of the Act. *See Second Sunset Review.* The Department received a notice of intent to participate from the following domestic parties: A. Zerega's Sons, Inc.; American Italian Pasta Company; Dakota Growers Pasta Company, Inc.; New World Pasta Company; and Philadelphia Macaroni Company (collectively, ''domestic interested parties''), within the deadline specified in 19 CFR 351.218(d)(1)(i). The companies claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic-like product in the United States.

The Department received a request for a 12-day extension of time from the Government of the Republic of Turkey (''GRT'') to submit its substantive response. The Department partially granted the GRT's request and extended the deadline for filing a substantive response to November 8, 2006. The same extension was also granted to the domestic interested parties, per their request. On November 8, 2006, the Department received complete substantive responses to the notice of initiation from the domestic interested parties and from the GRT.

The Department did not receive any substantive responses from Turkish producers or exporters of the merchandise covered by this order. Based on the fact that a government's response alone, normally, is not sufficient for full sunset reviews in which the orders are not done on an aggregate basis, we determined to conduct an expedited (120 day) sunset review of this order. *See* section 751(c)(3)(A) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). *See, e.g., Final Results of Expedited Sunset Reviews of Countervailing Duty Orders: Pure Magnesium and Alloy Magnesium from Canada,* 70 FR 67140 (November 4, 2005). *See also* Letter to Robert Carpenter, Director, Office of Investigations, International Trade Commission, from Wendy Frankel, Director, Import Administration, Department of Commerce, regarding inadequate response to the notice of initiation from respondent interested parties (November 21, 2006); and Memorandum from Saliha Loucif, International Trade Compliance Analyst, to Susan Kuhbach, Office Director, Import Administration, Department of Commerce, regarding ''Adequacy Determination of the Second Sunset Review of the Countervailing Duty Order on Certain Pasta from Turkey'' (November 21, 2006).

On January 19, 2007, the Department placed the calculation of the all-others rate from the investigation onto the record of this sunset review and allowed parties to comment. We received comment from domestic interested parties and the GRT on January 24, 2007. No hearing was held because none was requested.

Scope of the Order

Covered by the order are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this order is typically sold in the retail market, in fiberboard or cardboard cartons or polyethylene or polypropylene bags, of varying dimensions.

Excluded from the order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

The merchandise under review is currently classifiable under subheading 1902.19.20 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Scope Ruling

To date, the Department has issued the following scope ruling:

On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances may be within the scope of the countervailing duty order. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the countervailing duty order. *See* Memorandum from John Brinkmann to Richard Moreland, dated May 24, 1999, which is on file in the Central Records Unit (''CRU'') in room B–099 of the main Department building.

Analysis of Comments Received

All issues raised in substantive responses by parties in this sunset review are addressed in the ''Issues and Decision Memo for the Expedited Sunset Review of the Countervailing Duty Order on Certain Pasta from Turkey; Final Results,'' (''Decision Memo''), from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated January 30, 2007, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of a countervailable subsidy, the net countervailable subsidy rate likely to prevail if the order were revoked, and the nature of the subsidies.

Parties can find a complete discussion of all issues raised in this sunset review and the corresponding recommendation in this public memorandum which is on file in the CRU. In addition, a complete version of the Decision Memo can be accessed directly on the Department's Web page at *http://ia.ita.doc.gov/frn/index.html.* The paper copy and electronic version of the Decision Memo are identical in content.

Final Results of Review

The Department determines that revocation of the countervailing duty order on pasta from Turkey is likely to lead to continuation or recurrence of countervailable subsidies at the following countervailing duty rates:

Manufacturer/Exporter	Net Subsidy Rate (percent)
Filiz Gida Sanayi ve Ticaret	3.03

Manufacturer/Exporter	Net Subsidy Rate (percent)
Maktas Makarnacilik ve Ticaret/ Gidasa Gida San.Tic.A.S. 1	4.49
Oba Makarnacilik Sanayi ve Ticaret	14.48
''All Others''	10.25

Notification Regarding Administrative Orders

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or 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 this determination and notice in accordance with sections 751(c), 752, and 777(i) of the Act.

Dated: January 30, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–1813 Filed 2–2–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–819]

Certain Pasta From Italy: Final Results of Expedited Five-Year (''Sunset'') Review of the Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On October 2, 2006, the Department of Commerce (''the Department'') published in the **Federal Register** the notice of initiation of the second five-year sunset review of the countervailing duty order on certain pasta (''pasta'') from Italy, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-year (''Sunset'') Reviews*, 71 FR 57921 (October 2, 2006) (''*Second Sunset Review*''). The Department has conducted an expedited sunset review of this order pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). As a result of this sunset review, the Department finds that revocation of the countervailing duty order is likely to lead to continuation or recurrence of a countervailable subsidy at the levels indicated in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: February 5, 2007.

FOR FURTHER INFORMATION CONTACT: Audrey R. Twyman or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482–3534 or (202) 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

The countervailing duty order which covers pasta from Italy was published in the **Federal Register** on July 24, 1996. *See Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta (''Pasta'') From Italy*, 61 FR 38544 (July 24, 1996). On October 2, 2006, the Department initiated the second sunset review of this order, pursuant to section 751(c) of the Act. *See Second Sunset Review*. The Department received a notice of intent to participate from the following domestic parties: A. Zerega's Sons, Inc.; American Italian Pasta Company; Dakota Growers Pasta Company, Inc.; New World Pasta Company; and Philadelphia Macaroni Company (collectively, ''domestic interested parties''), within the deadline specified in 19 CFR 351.218(d)(1)(i). The companies claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic-like product in the United States.

On October 12, 2006, the Department received a request for a 12-day extension of time from the Government of Italy (''GOI'') to submit its substantive response. The Department partially granted the GOI's request and extended the deadline for filing a substantive response to November 8, 2006. The same extension was also granted to the domestic interested parties, per their request. On November 8, 2006, the Department received complete substantive responses to the notice of initiation from the domestic interested parties and from the GOI. On November 2, 2006, we received a complete substantive response to the notice of initiation from the Delegation of the European Commission (''EC'').

The Department did not receive any substantive responses from any Italian producers or exporters of the merchandise covered by this order. Based on the fact that a government's response alone, normally, is not sufficient for full sunset reviews in which the orders are not done on an aggregate basis, we determined to conduct an expedited (120 day) sunset review of this order. *See* section 751(c)(3)(A) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). *See, e.g., Final Results of Expedited Sunset Reviews of Countervailing Duty Orders: Pure Magnesium and Alloy Magnesium from Canada,* 70 FR 67140 (November 4, 2005). *See also* Letter to Robert Carpenter, Director, Office of Investigations, International Trade Commission, from Wendy Frankel, Director, Import Administration, Department of Commerce, regarding inadequate response to the notice of initiation from respondent interested parties (November 21, 2006); and Memorandum from Saliha Loucif, International Trade Compliance Analyst, to Susan Kuhbach, Office Director, Import Administration, Department of Commerce, regarding ''Adequacy Determination of the Second Sunset Review of the Countervailing Duty Order on Certain Pasta from Italy,'' (November 21, 2006).

On January 19, 2007, the Department placed the calculation of the all others rate from the investigation onto the record of this sunset review and allowed parties to comment. We received comment from domestic interested parties on January 24, 2007. No hearing was held because none was requested.

Scope of the Order

Imports covered by the order are shipments of certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of the order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Instituto Mediterraneo Di Certificazione, Bioagricoop S.r.l., QC&I International Services, Ecocert Italia, Consorzio per il Controllo dei Prodotti Biologici, Associazione Italiana per l'Agricoltura Biologica, or Codex S.r.l. In addition,

based on publicly available information, the Department has determined that, as of August 4, 2004, imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by Bioagricert S.r.l. are also excluded from this order. *See* Memorandum from Eric B. Greynolds to Melissa G. Skinner, dated August 4, 2004, which is on file in the Department's Central Records Unit (''CRU'') in Room B–099 of the main Department building. Further, based on publicly available information, the Department has determined that, as of March 13, 2003, imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by Instituto per la Certificazione Etica e Ambientale (ICEA) are also excluded from this order.

See Memorandum from Audrey Twyman to Susan Kuhbach, dated February 28, 2006, entitled ''Recognition of Instituto per la Certificazione Etica e Ambientale (ICEA) as a Public Authority for Certifying Organic Pasta from Italy,'' which is on file in the CRU.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the *Harmonized Tariff Schedule of the United States* (''*HTSUS*''). Although the *HTSUS* subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Scope Rulings

The Department has issued the following scope rulings to date:

(1) On August 25, 1997, the Department issued a scope ruling that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the antidumping and countervailing duty orders. See Memorandum from Edward Easton to Richard Moreland, dated August 25, 1997, which is on file in the CRU.

(2) On July 30, 1998, the Department issued a scope ruling finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the antidumping and countervailing duty orders. *See* Letter from Susan H. Kuhbach to Barbara P. Sidari, dated July 30, 1998, which is available in the CRU.

(3) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances is within the scope of the antidumping and countervailing duty orders. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the antidumping and countervailing duty orders. *See* Memorandum from John Brinkmann to Richard Moreland, dated May 24, 1999, which is available in the CRU.

(4) On April 27, 2000, the Department self-initiated an anti-circumvention inquiry to determine whether Pastificio Fratelli Pagani S.p.A.'s importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention with respect to the antidumping and countervailing duty orders on pasta from Italy pursuant to section 781(a) of the Act and 19 CFR 351.225(b). *See Certain Pasta from Italy: Notice of Initiation of Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders,* 65 FR 26179 (May 5, 2000). On September 19, 2003, we published an affirmative finding of the anti-circumvention inquiry. *See Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders,* 68 FR 54888 (September 19, 2003).

Analysis of Comments Received

All issues raised in substantive responses by parties in this sunset review are addressed in the ''Issues and Decision Memo for the Expedited Sunset Review of the Countervailing Duty Order on Certain Pasta from Italy; Final Results,'' (''Decision Memo''), from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated January 30, 2007, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of a countervailable subsidy, the net countervailable subsidy rate likely to prevail if the order were revoked, and the nature of the subsidies.

Parties can find a complete discussion of all issues raised in this sunset review and the corresponding recommendation in this public memorandum which is on file in B–099, the Central Records Unit, of the main Commerce building. In addition, a complete version of the Decision Memo can be accessed directly on the Department's Web page at *http://ia.ita.doc.gov/frn/index.html.* The paper copy and electronic version of the Decision Memo are identical in content.

Final Results of Review

The Department determines that revocation of the countervailing duty order on pasta from Italy is likely to lead to continuation or recurrence of countervailable subsidies at the following countervailing duty rates:

Manufacturer/exporter	Net subsidy rate (percent)
Agritalia, S.r.l.	3.96
Agrrighi S.p.A. Industrie Alimentari	3.85
De Matteis Agroalimentare S.p.A.	3.48
Delverde, S.r.l.	6.76
F.lli De Cecco di Filippo Fara S. Martino S.p.A.	3.40
Industria Alimentare Colavita, S.p.A.	3.01
Isola del Grano S.r.L.	10.70
Italpast S.p.A.	10.70
Italpasta S.r.L.	3.85
La Molisana Alimentari S.p.A.	4.82
Labor S.r.L.	10.70
Molino e Pastificio De Cecco S.p.A. Pescara	3.40
Pastificio Guido Ferrara	2.34
Pastificio Campano, S.p.A.	3.47
Pastificio Riscossa F.lli Mastromauro S.r.L.	7.81
Tamma Industrie Alimentari di Capitanata	6.76
''All Others''	4.52

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or 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 this determination and notice in accordance with sections 751(c), 752, and 777(i) of the Act.

Dated: January 30, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–1816 Filed 2–2–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012507C]

Marine Mammals; File No. 877–1903

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Daniela Maldini, Okeanis, PO Box 818, Pacific Grove, CA 93950, has applied in due form for a permit to conduct scientific research on marine mammals.

DATES: Written, telefaxed, or e-mail comments must be received on or before March 7, 2007.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 877–1903.

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly or Amy Hapeman, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant requests a 5–year permit to conduct research on bottlenose dolphins, *Tursiops truncatus*, off the coast of California, primarily in Santa Monica Bay and Monterey Bay. Research would involve close approach for vessel surveys, photo-identification, videography, behavioral observations, and biopsy sampling. The purpose of the research is to investigate stock structure, demographics, behavior, residency patterns, and toxicity loads of coastal and offshore dolphins.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: January 25, 2007.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–1803 Filed 2–2–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Sunshine Act Meeting

AGENCY: Office of the Assistant Secretary of Defense (Health Affairs); DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972, as amended (5 U.S.C., Appendix) and the Sunshine in the Government Act of 1976, as amended (5 U.S.C. 552b(c), announcement is made of the following meeting:

NAME OF COMMITTEE: The Department of Defense Task Force on the Future of the Military Health Care, a duly established subcommittee of the Defense Health Board.

DATES: February 20, 2007.

TIMES: 8:30 a.m.–4 p.m.

LOCATION: The National Transportation Safety Board Conference Center located at 429 L'Enfant Plaza, Washington, DC 20594.

AGENDA: The purpose of the Task Force meeting is to obtain, review, and evaluate information related to the Task Forces congressionally-directed mission to examine matters relating to the future of military health care. The Task Force members will receive briefings on topics related to the delivery of military health care.

Prior to the public meeting the Task Force will conduct an Administrative Meeting from 8:30 a.m. to 9 a.m. to discuss administrative matters of the Task Force. In addition, the Task Force, following its public meeting, will conduct a Preparatory Meeting from 2:30 p.m. to 4 p.m. to work with the Task Force staff to analyze relevant issues and facts in preparation for the next meeting of the Task Force. Both the Administrative and Preparatory Meetings will be held at the National Transportation Safety Board Conference Center. Pursuant to 41 Code of Federal Regulations, Part 102–3.160, both the Administrative and Preparatory Meetings will be closed to the public.

Additional information and meeting registration is available online at the Defense Health Board Web site, *http://www.ha.osd.mil/dhb.*

FOR FURTHER INFORMATION CONTACT: Colonel Christine Bader, Executive Secretary, Department of Defense Task Force on the Future of Military Health Care, Skyline One, 5205 Leesburg Pike, Suite 810, Falls Church, VA 22041, (703) 681–3279, ext. 109 (*christine.bader@ha.osd.mil*).

SUPPLEMENTARY INFORMATION: Open sessions of the meeting will be limited by space accommodations. Any interested person may attend; however, seating is limited to the space available at the National Transportation Safety Board Conference Center. Individuals or organizations wishing to submit written comments for consideration by the Task Force should provide their comments to

the Executive Secretary of the Department of Defense Task Force on the Future of Military Health Care no later than five (5) business days prior to the scheduled meeting.

Dated: January 30, 2007.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–499 Filed 2–1–07; 12:09 pm]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Air Force

[No. USAF–2006–0018]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, Headquarters Air Force Recruiting Service announces the proposed extension of a previously approved public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, unity, and clarity of the information to be collected; (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 6, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Department of Defense, HQ AFRS/RSOC, 550 D Street West, Suite 1, Randolph AFB TX 78150–4527, or call HQ AFRS/RSOC, Officer Accessions Branch at (210) 652–4334.

Title, Associated Form, and OMB Number: Air Force Officer Training School Accession Forms; AFRS IMT 1413 and AF Form 215; OMB Control Number 0701–0080.

Needs and Uses: These forms are used by field recruiters and education counselors in the processing of Officer Training School (OTS) applications.

Affected Public: Individuals or households.

Annual Burden Hours: 500.

Number of Respondents: 500.

Responses per Respondent: 1.

Average Burden per Response: 1 hour.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are civilian and active-duty candidates applying for a commission in the United States Air Force. These forms provide pertinent information to facilitate selection of candidates for commission.

Dated: January 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 07–477 Filed 2–2–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Air Force

[No. USAF–2006–0017]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, Headquarters Air Force Recruiting Service announces the proposed extension of a previously approved public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, unity, and clarity of the information to be collected; (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 6, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Department of Defense, HQ AFRS/RSOC, 550 D Street West, Suite 1, Randolph AFB TX 78150–4527, or call HQ AFRS/RSOC, Officer Accessions Branch at (210) 652–4334.

Title, Associated Form, and OMB Number: Health Profession Accession Forms; AFRS IMT 1437 and AFRSI 36–2001; OMB Control Number 0701–0078.

Needs and Uses: These forms are used by field recruiters in the processing of health professions applicants applying for a commission in the United States Air Force.

Affected Public: Individuals or households.

Annual Burden Hours: 1,800.

Number of Respondents: 3,600.

Responses per Respondent: 1.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are civilian candidates applying for a commission in the United States Air Force as healthcare officers. These forms provide pertinent information to facilitate selection of candidates for commission.

Dated: January 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 07–478 Filed 2–2–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Air Force

[No. USAF–2007–0007]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3502(c)(2)(A) of the Paperwork Reduction Act of 1995, the Associate Director for Civil Aviation, Directorate of Operations and Training, Deputy Chief of Staff for Air and Space Operations, announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) The accuracy of the agency's estimate of the burden of the proposed information collection; (b) ways to enhance the quality, utility, and clarity of the information to be collected; and (c) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 6, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the HQ USAF/XOO–CA, 1480 Air Force Pentagon, Washington, DC 20330–1480, or call (703) 697–1796.

Title, Associated Form, and OMB Number: Civil Aircraft Certificate of Insurance, DD Form 2400; Civil Aircraft Landing Permit, DD Form 2401; Civil Aircraft Hold Harmless Agreement, DD Form 2402; OMB Control Number 0701–0050.

Needs and Uses: The collection of information is necessary to ensure that the security and operational integrity of military airfields are maintained; to identify the aircraft operator and the aircraft to be operated; to avoid competition with the private sector by establishing the purpose for use of military airfields; and to ensure the U.S. Government is not held liable if the civil aircraft becomes involved in an accident or incident while using military airfields, facilities, and services.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions.

Annual Burden Hours: 1,800.

Number of Respondents: 3,600.

Responses per Respondent: 1.

Average Burden for Respondents: 30 minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The collection of information is necessary to ensure that the security and operational integrity of military airfields are maintained; to identify the aircraft operator and the aircraft to be operated; to avoid competition with the private sector by establishing the purpose for use of military airfields; and to ensure the U.S. Government is not held liable if the civil aircraft becomes involved in an accident or incident while using military airfields, facilities, and services.

Dated: January 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 07–479 Filed 2–2–07; 8:45 am]

BILLING CODE 5001–067–M

DEPARTMENT OF DEFENSE

Department of the Air Force

[No. USAF–2007–0006]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of Admissions announces the proposed extension of a public information collection and seeks public comment on provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, unity, and clarity of the information to be collected; (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 6, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposed and associated collection instruments, please write to the United States Air Force Academy, Office of Admissions, 2304 Cadet Drive, Suite 236, USAFA, CO 80840, or call the United States Air Force Academy, Office of Admissions, (719) 333–7291.

Title, Associated form, and OMB Number: Air Force Academy Secondary School Transcript; USAF Form 148; OMB Number 0701–0066.

Needs and Uses: The information collection requirement is necessary to obtain data on candidate's background and aptitude in determining eligibility and selection to the Air Force Academy.

Affected Public: Individuals or households.

Annual Burden Hours: 4,000.

Number of Respondents: 7,500.

Responses per Respondent: 1.

Average Burden per Response: 30 Minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The information collected on this form is required by 10 U.S.C. 9346. The respondents are students who are applying for admission to the United States Air Force Academy. Each student's background and aptitude is reviewed to determine eligibility. If the information on this form is not collected, the individual cannot be considered for admittance to the Air Force Academy.

Dated: January 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 07–480 Filed 2–2–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Air Force

[No. USAF–2007–0004]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Force Sustainment Division announces the proposed extension to a previously approved public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, unity, and clarity of the information to be collected; (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 6, 2007.

ADDRESSES: You may submit comments, identified by docket numbers and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to HQ USA/DPDF, 1040 Air Force Pentagon, Rom 5C238, Washington, DC 20330–1040, ATTN: Major Jay Doherty, or call (703) 697–4720.

Title, Associated Form, and OMB Number: Family Support Center Individual/Family Data Card, AF Form 2800; Family Support Center Interview and Follow Up Summary, AF Form 2801; Family Support Center Volunteer Data and Service Record, AF Form 2805; OMB Control Number 0701–0070.

Needs and Uses: The information collection requirement is necessary to obtain demographic data about individuals and family members who utilize the services of the Family Support Center. It is also a mechanism for tracking the services provided in order to determine program usage and trends as well as program evaluation, service targeting, and future budgeting. It also provides demographic data on volunteers and tracks volunteer service.

Affected Public: Individuals or households.

Annual Burden Hours: 750.

Number of Respondents: 10,000.

Responses per Respondent: 3.

Average Burden per Response: 5 Minutes.

Frequency: Once.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents could be all those eligible for services, i.e., all Department of Defense personnel and their families. The completed forms are used to gather demographic data on those who use Family Support Centers, track what programs or services they use and how often. The elements in these forms are the basis for quarterly data gathering which is forwarded through the Major Commands to the Air Staff.

Dated: January 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 07–482 Filed 2–2–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Air Force

[No. USAF–2007–0003]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of Admissions announces the proposed extension of a public information collection and seeks public comment on provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, unity, and clarity of the information to be collected; (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 6, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal**

Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposed and associated collection instruments, please write to the United States Air Force Academy, Office of Admissions, 2304 Cadet Drive, Suite 236, USAFA, CO 80840, or call the United States Air Force Academy, Office of Admissions, (719) 333–7291.

Title, Associated Form, and OMB Number: Air Force Academy Candidate Personal Data Record, USAFA Form 146, OMB Number 0701–0064.

Needs and Uses: The information collection requirement is necessary to obtain data on candidate's background and aptitude in determining eligibility and selection to the Air Force Academy.

Affected Public: Individuals or households.

Annual Burden Hours: 3,617.

Number of Respondents: 7,233.

Responses per Respondent: 1.

Average Burden per Response: 1.

Average Burden per Response: 30 Minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The information collected on this form is required by 10 U.S.C. 9346. The respondents are students who are applying for admission to the United States Air Force Academy. Each student's background and aptitude is reviewed to determine eligibility. If the information on this form is not collected, the individual cannot be considered for admittance to the Air Force Academy.

Dated: January 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 07–483 Filed 2–2–07; 8:45 am]

BILLING CODE 5007–06–M

DEPARTMENT OF DEFENSE

Department of the Air Force

[No. USAF–2007–0002]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of Admissions announces the proposed extension of a public information collection and seeks public comment on provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, unity, and clarity of the information to be collected; (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 6, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposed and associated collection instruments, please write the United States Air Force Academy, Office of Admissions, 2304 Cadet Drive, Suite 236, USAFA, CO 80840, or call the United States Air Force Academy, Office of Admissions, (719) 333–7291.

Title, Associated Form, and OMB Number: Air Force Academy Candidate Activities Records, USAFA Form 147, OMB Number 0701–0063.

Needs and Uses: The information collection requirement is necessary to obtain data on candidate's background and aptitude in determining eligibility and selection to the Air Force Academy.

Affected Public: Individuals or households.

Annual Burden Hours: 5,258.

Number of Respondents: 7,010.

Responses per Respondent: 1.

Average Burden per Response: 45 Minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The information collected on this form is required by 10 U.S.C. 9346. The respondents are students who are applying for admission to the United States Air Force Academy. Each student's background and aptitude is reviewed to determine eligibility. If the information on this form is not collected, the individual cannot be considered for admittance to the Air Force Academy.

Dated: January 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 07–484 Filed 2–2–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

[No. USN–2007–0006]

Proposed Collection; Comment Request

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Chief of Naval Education and Training announces a proposed extension of a previously approved public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents,

including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 6, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail*: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–61160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submission from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request additional information or to obtain a copy of the proposal and associated collection instruments, write to CDR K. Looney (N79A21), 250 Dallas Street, Pensacola, FL 32508–5220, or contact CDR K. Looney at (850) 452–9387.

Title; Associated Form; and OMB Number: Application Forms Booklet, Naval Reserve Officers Training Corps (NROTC) Scholarship Program; OMB Control Number 0703–0026.

Needs and Uses: This collection of information is used to make a determination of an applicant's academic and/or leadership potential and eligibility for an NROTC scholarship. The information collected is used to select the best-qualified candidates.

Affected Public: Individuals or households.

Annual Burden Hours: 56,000.

Number of Respondents: 14,000.

Responses Per Respondent: 1.

Average Burden Per Response: 4 hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This collection of information is used to make a determination of an applicant's academic and/or leadership potential and eligibility for an NROTC scholarship. The information collected is used to select the best-qualified candidates.

Dated: January 22, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–476 Filed 2–2–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Chief of Naval Operations (CNO) Executive Panel

AGENCY: Department of the Navy, DoD.

ACTION: Notice of Closed Meeting.

SUMMARY: The CNO Executive Panel will report on the findings and recommendations of the Naval Education Subcommittee to the CNO. The meeting will consist of the final report to the CNO and relate solely to the internal personnel rules and practices of the Navy in the area of education.

DATES: The meeting will be held on February 20, 2007, from 2 p.m. to 3:30 p.m.

ADDRESSES: The meeting will be held in CNA Corporation Building, 4825 Mark Center Drive, Alexandria, VA 22311, Room 1A02.

FOR FURTHER INFORMATION CONTACT: CDR Steve Vincent, CNO Executive Panel, 4825 Mark Center Drive, Alexandria, VA 22311, 703–681–4906.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), these matters constitute sensitive information that is specifically authorized to be kept private. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in sections 552b(c)(2) and 552b(c)(6) of title 5, United States Code.

Dated: January 29, 2007.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–1775 Filed 2–2–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Ionova Technologies, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Ionova Technologies, Inc., a revocable, non-assignable, exclusive license in the field of electrode structures consisting of metal oxide coatings on porous carbon substrates for electrochemical capacitor devices in the United States and certain foreign countries, the Government-owned invention described in Navy Case No. 98,287: ELECTROLESS DEPOSITION OF NANOSCALE MANGANESE OXIDE ON ULTRAPOROUS CARBON NANOARCHITECTURES FOR ELECTROCHEMICAL CAPACITOR APPLICATIONS, and any continuations, divisionals, or re-issues thereof.

DATES: Anyone wishing to object to the grant of this License must file written objections along with supporting evidence, if any, not later than February 20, 2007.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone 202–767–3083. Due to U.S. Postal delays, please fax 202–404–7920, e-mail: *rita.manak@nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR Part 404.)

Dated: January 29, 2007.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–1788 Filed 2–2–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Walleye Technologies, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Walleye Technologies, Inc., a revocable, non-assignable, exclusive license in the field of portable x-ray units for use in medical imaging, including but not limited to, medical first responder, medical emergency

room, and medical battlefield imaging in the United States and certain foreign countries, the Government-owned inventions described in U.S. Patent No. 6,064,718: Field Emission Tube for a Mobile X-ray Unit, Navy Case No. 78,568.//U.S. Patent No. 6,166,459: Capacitor Mounting Arrangement for Marx Generators, Navy Case No. 78,568.// U.S. Patent No. 6,205,200: Mobile X-ray Unit, Navy Case No. 78,059.//U.S. Patent No. 6,285,740: Dual Energy X-ray Densitometry Apparatus and Method Using Single X-ray Pulse, Navy Case No. 79,057.//U.S. Patent No. 6,690,566: Trigger Circuit for Marx Generators, Navy Case No. 79,357 and any continuations, divisionals or re-issues thereof.

DATES: Anyone wishing to object to the grant of this License must file written objections along with supporting evidence, if any, not later than February 20, 2007.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone 202–767–3083. Due to U.S. Postal delays, please fax 202–404–7920, e-mail: *rita.manak@nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR Part 404.)

Dated: January 29, 2007.

M. A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–1789 Filed 2–2–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Office of Safe and Drug-Free Schools; Overview Information; Alcohol and Other Drug Prevention Models on College Campuses; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2007

Catalog of Federal Domestic Assistance (CFDA) Number: 84.184N.

Dates: Applications Available: February 6, 2007.

Deadline for Transmittal of Applications: April 9, 2007.

Deadline for Intergovernmental Review: June 8, 2007.

Eligible Applicants: Institutions of higher education (IHEs) that offer an associate or baccalaureate degree. Additionally, to be eligible an IHE must not have received an award under this grant competition (CFDA 84.184N) during the previous five fiscal years (fiscal years 2002 through 2006).

Estimated Available Funds: The Administration's budget request for FY 2007 does not include funds for this program. However, we are inviting applications to allow enough time to complete the grant process before the end of the current fiscal year if Congress appropriates funds for this program. Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2007 and subsequent years based on the list of unfunded applications from this competition.

Estimated Range of Awards: $125,000–$175,000.

Estimated Average Size of Awards: $150,000.

Estimated Number of Awards: 5.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 15 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The goals of this program are to identify models of effective campus-based alcohol and other drug prevention programs and disseminate information about these programs to other colleges and universities where similar efforts may be adopted.

Priority: This priority is from the notice of final priority and eligibility requirements for this program, published in the **Federal Register** on June 24, 2005 (70 FR 36570).

Absolute Priority: For FY 2007 and any subsequent year in which we make awards on the basis of the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Under this priority the Department provides funding to IHEs that have been implementing effective alcohol and other drug prevention programs on their campuses. An IHE that receives funding under this priority must identify, enhance, further evaluate, and disseminate information about an effective alcohol or other drug prevention program being implemented on its campus.

To meet the priority, applicants must provide in their application—

(1) A description of an alcohol or other drug prevention program that has been implemented for at least two full academic years on the applicant's campus;

(2) Evidence of the effectiveness of the program on the applicant's campus;

(3) A plan to enhance and further evaluate the program during the project period; and

(4) A plan to disseminate information to assist other IHEs in implementing a similar program.

Program Authority: 20 U.S.C. 7131.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, 99, and 299. (b) The notice of final priority and eligibility requirements published in the **Federal Register** on June 24, 2005 (70 FR 36570).

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration's budget request for FY 2007 does not include funds for this program. However, we are inviting applications to allow enough time to complete the grant process before the end of the current fiscal year if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2007 and subsequent years based on the list of unfunded applications from this competition.

Estimated Range of Awards: $125,000–$175,000.

Estimated Average Size of Awards: $150,000.

Estimated Number of Awards: 5.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 15 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs that offer an associate or baccalaureate degree. Additionally, to be eligible an IHE must not have received an award under this grant competition (CFDA 84.184N) during the previous five fiscal years (fiscal years 2002 through 2006).

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. Fax: 1–301–470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

You may also access the electronic version of the application at the following Web sites: *www.grants.gov* or *http://www.ed.gov/programs/dvpcollege/applicant.html.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.184N.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting one of the contact persons listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program. Page Limit: The program narrative section should not exceed 25 double-spaced pages using a standard font no smaller than 12-point, with 1-inch margins (top, bottom, left, and right). The narrative should follow the format and sequence of the selection criteria.

3. *Submission Dates and Times:*

Applications Available: February 6, 2007.

Deadline for Transmittal of Applications: April 9, 2007.

Applications for grants under this program may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact either of the persons listed under **FOR FURTHER INFORMATION CONTACT** in Section VII of this notice.

Deadline for Intergovernmental Review: June 8, 2007.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR Part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this program may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

To comply with the President's Management Agenda, we are participating as a partner in the Governmentwide Grants.gov Apply site. The Alcohol and Other Drug Prevention Models on College Campuses Grant Competition, CFDA Number 84.184N, is included in this project. We request your participation in Grants.gov.

If you choose to submit your application electronically, you must use the Governmentwide Grants.gov Apply site at *http://www.grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

You may access the electronic grant application for the Alcohol and Other Drug Prevention Models on College Campuses Grant Competition at www.grants.gov. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.*, search for 84.184, not 84.184N).

Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date and time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*
- To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp*). These steps include (1) Registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- If you submit your application electronically, you must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424

and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance).

• If you submit your application electronically, you must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department). The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact either of the persons listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.184N), 400 Maryland Avenue, SW., Washington, DC 20202–4260, or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center, Stop 4260, Attention: (CFDA Number 84.184N), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.184N), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at 1–202–245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this program are from section 75.210 of EDGAR and are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year

award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* The Secretary may choose to develop performance measures for the Alcohol and Other Drug Prevention Models on College Campuses Program in accordance with the Government Performance and Results Act (GPRA). If measures are developed, grantees will be asked to provide information that relates to participant outcomes and project management.

VII. Agency Contacts

For Further Information Contact: Richard Lucey, Jr., U.S. Department of Education, 400 Maryland Avenue, SW., room 3E335, Washington, DC 20202–6450. Telephone: 1–202–205–5471 or by e-mail: *richard.lucey@ed.gov* or Ruth Tringo, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E338, Washington, DC 20202–6450. Telephone: 1–202–260–2838 or by e-mail: *ruth.tringo@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–888–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to one of the contact persons listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at 1–202–512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Dated: January 31, 2007.

Deborah A. Price,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. E7–1806 Filed 2–2–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

President's Board of Advisors on Historically Black Colleges and Universities

AGENCY: President's Board of Advisors on Historically Black Colleges and Universities, Department of Education.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and agenda of the meeting of the President's Board of Advisors on Historically Black Colleges and Universities. This notice also describes the functions of the Board. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of its opportunity to attend.

Date: Monday, February 26, 2007.

Time: 9 a.m.–3 p.m.

Location: University of Arkansas at Pine Bluff, 1200 North University Drive, Childress Hall, Board Room, Pine Bluff, AR 71601, Phone: 870–575–8471, Fax: 870–575–4645.

FOR FURTHER INFORMATION CONTACT: Charles M. Greene, Executive Director, White House Initiative on Historically Black Colleges and Universities, 1990 K Street, NW., Washington, DC 20006; telephone: (202) 502–7511, fax: 202–502–7852.

SUPPLEMENTARY INFORMATION: The President's Board of Advisors on Historically Black Colleges and Universities is established under Executive Order 13256, dated February 12, 2002 and Executive Order 13316 dated September 17, 2003. The Board is established (a) To report to the President annually on the results of the participation of historically black colleges and universities (HBCUs) in Federal programs, including recommendations on how to increase the private sector role in strengthening these institutions, with particular emphasis given to enhancing institutional planning and development; strengthening fiscal stability and financial management; and improving institutional infrastructure, including the use of technology, to ensure the long-term viability and enhancement of these institutions; (b) to advise the President and the Secretary of Education (Secretary) on the needs of HBCUs in the areas of infrastructure, academic programs, and faculty and institutional development; (c) to advise the Secretary in the preparation of an annual Federal plan for assistance to HBCUs increasing their capacity to participate in Federal programs; (d) to provide the President with an annual progress report on enhancing the capacity of HBCUs to serve their students; and (e) to develop, in consultation with the Department of Education and other Federal agencies, a private sector strategy to assist HBCUs.

Agenda: The purpose of the meeting is to receive and deliberate on policy issues pertinent to the Board and the nation's HBCUs and to plan Board activities for 2007–08.

Additional Information: Individuals who will need accommodations for a disability in order to participate on the call (*e.g.*, assistive listening devices, or material in alternative format) should notify ReShone Moore at (202) 502–7893, no later than Monday, February 19, 2007. We will attempt to meet requests for accommodations after this date, but, cannot guarantee their availability.

An opportunity for public comment is available on Monday, February 26, 2007 between 2:30 p.m.–3 p.m. Those members of the public interested in submitting written comments may do so by submitting it to the attention of Charles M. Green, 1990 K Street NW., Washington, DC, by Wednesday, February 21, 2007.

Records are kept of all Board proceedings and are available for public inspection at the office of the White House Initiative on Historically Black Colleges and Universities, U.S. Department of Education, 1990 K Street, NW., Washington, DC 20006, during the hours of 8 a.m. to 5 p.m. (EST).

James F. Manning,

Delegated the Authority of the Assistant Secretary, Office of Postsecondary Education, U.S. Department of Education.

[FR Doc. 07–469 Filed 2–2–07; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Nuclear Energy Research Advisory Committee; Notice of Open Meeting

AGENCY: Department of Energy, Office of Nuclear Energy.

ACTION: Notice of open meeting.

SUMMARY: The Office of Nuclear Energy announces that the Nuclear Energy Research Advisory Committee will hold an open meeting and the public is invited. The Federal Advisory Committee Act (Pub. L. 92–463, as

amended) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, February 20, 2007; 3 p.m. until 6 p.m.

Wednesday, February 21, 2007; 8:30 a.m. until 2 p.m.

ADDRESSES: The meeting will be held at the Bennion Student Union, 1784 Science Center Drive, Room 109, Idaho Falls, ID 83402.

FOR FURTHER INFORMATION CONTACT: Dr. John Boger, Designated Federal Officer, U.S. Department of Energy, 19901 Germantown Rd, Germantown, MD 20874; telephone (301) 903–4495; e-mail *john.boger@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Nuclear Energy Research Advisory Committee (NERAC) was established in 1998 by the U.S. Department of Energy (DOE) to provide independent, expert advice on complex scientific, technical, and policy issues that arise in the planning, managing, and implementation of DOE's civilian nuclear energy research programs. The committee is composed of 14 individuals of diverse backgrounds selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues that pertain to nuclear energy.

Purpose of the Meeting: To inform the committee of recent developments and current status of research programs and projects pursued by the Department of Energy's Office of Nuclear Energy and receive advice and comments in return from the committee.

Tentative Agenda: The agenda during the two-day meeting is expected to include presentations that cover such topics as the current status of the Global Nuclear Energy Partnership (GNEP), Next Generation of Nuclear Power, Nuclear Power 2010, and Idaho National Laboratory. The agenda may change to accommodate committee business. For updates, one is directed to the NERAC Web site: *http://nuclear.gov/nerac/neNeracOverview.html.*

Public Participation: Individuals and representatives of organizations who would like to offer comments and suggestions may do so on the second day of the meeting, Wednesday, February 21, 2007. Approximately one-half hour will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but is not expected to exceed 5 minutes. The public is invited up to the capacity of the meeting room. Anyone who is not able to make the meeting or has had insufficient time to address the committee is invited to send a written statement to Dr. John Boger, 19901 Germantown Rd, Germantown, MD 20874, or e-mail *john.boger@hq.doe.gov.*

Minutes: The minutes will be available on the NERAC Web site: *http://nuclear.gov/nerac/neNeracOverview.html.*

Issued in Washington, DC on January 30, 2007.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E7–1772 Filed 2–2–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

[BPA Docket No. TR–08]

2008 Transmission Rate Case; Public Hearing and Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of 2008 Transmission Rate Case.

SUMMARY: BPA requests that all motions, petitions, comments and documents intended to become part of the Official Record of the 2008 Transmission Rate Case proceeding include the designation TR–08.

BPA's existing transmission and ancillary services rates expire September 30, 2007. BPA will establish transmission and ancillary service rates in the 2008 Transmission Rate proceeding for the period from October 2007 through September 2009, fiscal years (''FY'') 2008 and 2009 (''2008–2009 Rate Period'').

BPA's Transmission Services organization held several rate case workshops with BPA's transmission customers from July through October 2006 to discuss transmission costs, revenues, and rate design issues for the 2008–2009 Rate Period. The customers had expressed interest in meeting to discuss the possibility of a settlement of the rate proposal. Settlement discussions were publicly noticed and held during October and November 2006 and resulted in BPA's offer of a settlement agreement (''Settlement Agreement'') on November 30, 2006. By January 5, 2007, most of BPA's customers had signed the Settlement Agreement or indicated that they would not object to Transmission Services's initial rate proposal (''Initial Proposal''). Transmission Services executed the Settlement Agreement on January 12, 2007. The Initial Proposal reflects the terms of the Settlement Agreement.

DATES: Persons wishing to become parties to the 2008 Transmission Rate Case proceeding must file a petition to intervene which shall be received by BPA no later than 4:30 p.m., Pacific Time, on February 12, 2007. For further information on petitions to intervene please see the ''**ADDRESSES**'' and ''**SUPPLEMENTARY INFORMATION**,'' Part III sections of this notice.

The hearing on BPA's 2008 Transmission Rate Case will begin with a pre-hearing conference at 9 a.m., Pacific Time, on February 14, 2007, in Portland, Oregon, at the address specified below. Because of increased building security, attendees should allow additional time for entry into the building. Attendees must present a photo ID and must sign in at the security desk. Compact discs (''CD'') containing the Initial Proposal documents, in PDF format, will be provided to parties at the pre-hearing conference. The Initial Proposal, studies and documentation, and the Settlement Agreement also will be available on BPA's Web site at: *http://www.transmission.bpa.gov/Business/Rates%5Fand%5FTariff/,* and may be viewed at BPA's Public Reference Room, 1st floor, 905 NE 11th Ave., Portland, Oregon, on or after February 14, 2007.

Written comments by non-party participants must be received by BPA no later than March 16, 2007, to be considered in the Record of Decision (''ROD'').

The Administrator will issue a Final Record of Decision in this proceeding on approximately April 30, 2007.

ADDRESSES: 1. Petitions to intervene should include the designation TR–08 and be directed to Transmission Hearing Clerk—LT–7, Bonneville Power Administration, 905 NE 11th Ave., Portland, Oregon 97232. In addition, a copy of the petition must be served concurrently on BPA's Office of General Counsel, directed to Susan Millar—LT–7, Office of General Counsel, 905 NE 11th Ave., Portland, Oregon 97232 (see Part III, A, for more information).

2. Written comments on the Initial Proposal may be submitted by non-party participants, and should include the designation TR–08 and be submitted to Transmission Rate Case, Bonneville Power Administration, Public Affairs—DKC–7, P.O. Box 14428, Portland, OR 97293–4428. You also may e-mail your comments to: *comment@bpa.gov* (see Part III.A., below, for more information).

3. The pre-hearing conference will be held in the BPA Rates Hearing Room,

2nd floor, 911 NE 11th Ave., Portland, Oregon, at 9 a.m., Pacific Time, on February 14, 2007.

FOR FURTHER INFORMATION CONTACT: Information also may be obtained from Public Affairs—DKC–7, P.O. Box 14428, Portland, OR 97293–4428; by toll free phone at (800) 622–4519; or via e-mail to: *comment@bpa.gov.*

Responsible Official: Ms. Nancy Parker, Transmission Rate Case Manager, is the official responsible for the development of BPA's transmission and ancillary service rates.

SUPPLEMENTARY INFORMATION:

Table of Contents

Part I—Introduction and Procedural Background
Part II—Purpose and Scope of Hearing
Part III—Public Participation
Part IV—Major Studies and Summary of Transmission Rate Proposal
Part V—2008 Transmission and Ancillary Service Rate Schedules

Part I—Introduction and Procedural Background

Section 7(i) of the Northwest Power Act, 16 U.S.C. Section 839e(i), requires that BPA's rates be established and revised according to certain procedures. These procedures include, among other things, publication of notice of the proposed rates in the **Federal Register**; one or more hearings conducted as expeditiously as practicable by a Hearing Officer to develop a full and complete record and to receive public comment in the form of written and oral presentation of views, data, questions, and arguments related to the proposed rates; and a final decision by the Administrator establishing or revising rates based on the record. BPA's rate proceedings are governed by the Rules of Procedures Governing Bonneville Power Administration Rate Hearings, 51 FR 7611 (1986) (''Procedures''). These Procedures implement the statutory Section 7(i) requirements. The 2008 Transmission Rate Case proceeding will be governed by Section 1010.9 of the Procedures, providing for a general rate proceeding, as the Procedures may be modified by the Hearing Officer at the pre-hearing conference. BPA will not convene separate field hearings to provide for oral comments by non-party participants. However, written comments received from non-party participants no later than March 16, 2007 will be considered. Section 1010.7 of the Procedures prohibits ex parte communications. Limits on ex parte communications to the Administrator or BPA's employees regarding any matter pending in the hearing begin as of February 5, 2007.

The Flood Control Act of 1944, 16 U.S.C. Section 825s; the Federal Columbia River Transmission System Act, 16 U.S.C. Sections 838g and 838h; the Northwest Power Act, 16 U.S.C. Section 839e; and the Federal Power Act, 16 U.S.C 824k(i)(1) provide guidance regarding BPA's ratemaking. With regard to transmission rates, the Northwest Power Act requires BPA to set rates that are sufficient to recover, in accordance with sound business principles, the cost of transmitting electric power, including amortization of the Federal investment over a reasonable period of years, and the other costs and expenses incurred by the Administrator. The Federal Columbia Transmission System Act requires among other things, that the costs of the Federal Columbia River Transmission System be equitably allocated between Federal and non-Federal power utilizing the system. In addition, the Federal Power Act provides that rates for Commission-ordered transmission service shall be at rates and charges governed only by otherwise applicable laws, except that no rate shall be unjust, unreasonable, or unduly discriminatory or preferential.

A proposed schedule for the formal hearing is stated below. A final schedule will be established by the Hearing Officer at the pre-hearing conference.

February 12, 2007: Petitions to Intervene

February 14, 2007: Pre-hearing Conference and Filing of BPA Initial Proposal

February 21, 2007: Party Objections to Initial Proposal/Debt Optimization Program Demonstration and Identification of issues to be preserved for hearing

February 26, 2007: Scheduling Conference (if necessary)

March 16, 2007: Participant Comments Due

April 30, 2007: Final Record of Decision (date approximate)

Part II—Purpose and Scope of Hearing

A. Key Components

1. Overview

BPA is committed to marketing its power and transmission services separately in a manner that is modeled after the regulatory initiatives to promote competition in wholesale power markets that were adopted by the Commission in 1996. The Commission's initiatives in Orders 888 [1] and 889 [2] directed public utilities to separate their power merchant functions from their transmission functions; unbundle transmission and ancillary services from wholesale power services; and set separate rates for wholesale generation, transmission, and ancillary services. Although BPA is not required to follow the Commission's regulatory directives applicable to public utilities under the Federal Power Act, BPA has elected to separate its power and transmission functions and unbundle its power and transmission rates in a manner consistent with the directives concerning non-discriminatory open access transmission service. Accordingly, in 1997 BPA established separate business lines: BPA's Power Services organization, which performs BPA's wholesale merchant functions; and Transmission Services, which performs BPA's transmission system operations and reliability functions. BPA develops its transmission rates and its power rates in separate proceedings.

2. Power Services as a Party to the 2008 Transmission Rate Case

Because BPA separated its power and transmission functions and sets its power and transmission rates in separate proceedings, and Power Services is a transmission customer, it is appropriate that Power Services be a party to the transmission rate proceeding. Accordingly, subject to a petition to intervene, Power Services will be considered a party to the 2008 Transmission Rate Case for all purposes under the BPA Procedures. Power Services may file testimony and briefs as a party and will be entitled to all other procedural rights of a party. In particular, Power Services will be considered a party for purposes of limitations on ex parte communications

3. Two-Year Transmission Rate Period

The rates proposed in the 2008 Transmission Rate Case are for a two-year period: The 2008–2009 Rate Period. A two-year rate period balances the need for a short rate period to limit revenue and cost risks with the significant resource and time requirements needed to plan and carry out a rate case.

[1] Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Pubic Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Reg-Preamble, FERC Stats & Regs 1991–96, ¶31,036 (1996).

[2] Open Access Same-Time Information System (formerly Real-Time Information Networks) and Standards of Conduct, Reg-Preamble, FERC Stats & Regs 1991–96, ¶31,035 (1996).

4. Settlement Agreement

Transmission Services and most of its customers are parties to the Settlement Agreement, which provides for an Initial Proposal that incorporates the agreement's provisions. The Settlement Agreement may be viewed at: *http://www.transmission.bpa.gov/Business/Rates_and_Tariff/ratesdocs/_Settlement_Agreement_2008.pdf*. The Settlement Agreement identifies proposed changes to the rate schedule terms and conditions and specifies proposed rate levels for BPA's transmission and ancillary service rates during the 2008–2009 Rate Period, as summarized in Attachment 1 to the Settlement Agreement and as reflected in the proposed Rate Schedules in Part V of this Notice. The rate levels proposed in the Settlement Agreement result in a zero percent average rate increase compared to FY 2006–2007 rates. Although the transmission rate charges are higher than current rates, BPA forecasts that the Reactive Supply and Voltage Control from Generation Sources Services (GSR) formula rate will be zero, resulting in no change in customers' total bills for transmission and ancillary services. In addition, the Settlement Agreement provides that the Initial Proposal will reflect, in the calculation and presentation of the transmission revenue requirement, $15 million recorded as transmission reserves in each year of the 2008–2009 Rate Period (for a total of $30 million) as a funding source for transmission capital programs.

Consistent with the Settlement Agreement, the Initial Proposal revenue requirement includes $4.5 million per year for payments for redispatch of generation provided under Attachment K of BPA's Open Access Transmission Tariff (OATT) and under any other reliability redispatch program(s). The Settlement Agreement provides further that Transmission Services will pay Power Services on a per-event basis for redispatch based on submitted bids. Currently, Transmission Services pays Power Services $1.5 million per year for redispatch.

The Settlement Agreement also includes a proposed revised Attachment K to the OATT, which Transmission Services will submit to the Commission. The revised Attachment K sets forth the procedures under which Transmission Services will request redispatch of Federal resources from Power Services during the 2008–2009 Rate Period in order to preserve transmission system reliability. The proposed revision clarifies that there are three types of redispatch that Power Services may provide under Attachment K: Emergency Redispatch; Network Transmission Service Firm Redispatch; and Discretionary Redispatch. It establishes the circumstances under which Transmission Services may request each type of redispatch and the criteria that apply to the Power Services response to the request.

The Settlement Agreement provides for the demonstration that transmission rates are no higher with BPA's Debt Optimization Program (DOP) than they would have been in the absence of the DOP, including Debt Service Reassignment, and describes the DOP-related costs for which transmission rates are being set. Finally, the Settlement Agreement states that Transmission Services does not intend to compensate Power Services or third parties for generation-supplied reactive power during the 2008–2009 Rate Period.

The Settlement Agreement provides notice that during the 2008–2009 Rate Period, BPA may conduct a separate rate proceeding to establish a rate for generation regulation service and generation following service.

Any party to the 2008 Transmission Rate Case that did not sign the Settlement Agreement may object to the Initial Proposal. A party that objects to the Initial Proposal or to the DOP demonstration (BPA Slice customers that are parties to the rate case and the Northwest Requirements Utilities may object to the DOP demonstration) must identify the issues it wishes to preserve for hearing.

B. Overview of the Public Process

1. Program Level Funding Workshops—Programs in Review

Beginning in May 2006 and continuing through the summer of 2006, BPA provided an opportunity for public participation and input on transmission programs and program cost levels through the Programs In Review (''PIR'') process. PIR began with a notification by mail to transmission customers, tribes, regional stakeholders and other interested parties. Transmission Services also published notices on its external Web site. During May and June 2006, BPA held five public meetings around the region and gave a separate briefing to the Affiliated Tribes of the Northwest Indians to present proposed capital and expense levels along with business and policy considerations. At these public meetings, BPA transmission and corporate staff discussed issues concerning future capital investments in the transmission system and proposed expense levels for transmission system development, operation, maintenance, and reliability for the 2008–2009 Rate Period. A technical workshop was held in July 2006. Transmission Services also provided informational materials through direct mailings, written responses to customer letters, e-mailings, and publication of all BPA and customer-generated materials on Transmission Services' external Web site, and through making staff available to answer questions.

In the PIR workshops, BPA and its customers examined program spending levels for the 2008–2009 Rate Period for both capital projects and expense programs. BPA also discussed its vision for planned future direction in transmission and its plans to manage the many challenges the organization faces through FY 2009. BPA explored customer and interested parties' views on: (1) Priorities for transmission investment; (2) sources of capital for transmission infrastructure; (3) the effect on expenses of a change in capitalization policies; (4) new regulatory requirements; (5) delays in non-electric plant maintenance because of budget constraints; (6) efforts to manage a constrained transmission system; (7) maintenance of a skilled and trained workforce; and (8) right-of-way management. BPA accepted written and oral comments on its proposed transmission programs, including expense and capital spending levels, through September 7, 2006. BPA shared revised program levels with customers and allowed an additional two-week comment period. After considering customer comments, BPA concludes the PIR process by issuing the Administrator's close-out letter on transmission spending levels for the 2008–2009 Rate Period.

In summary, BPA remains committed to managing its costs and continuing to seek efficiencies in the way it conducts its transmission business. The three reasons for changes in costs from the 2006–2007 rate period include: (1) Mandated or non-discretionary costs, (2) transmission program changes, and (3) needed system and efficiency initiatives. The Initial Proposal reflects the Administrator's close-out letter on transmission program spending levels for the 2008–2009 Rate Period.

2. Transmission Rate Case Customer Workshops

In preparation for the 2008 Transmission Rate Case, Transmission Services held an initial public workshop on July 27, 2006, for customers and other interested parties. Two additional public workshops and meetings were

held on August 16, 2006, and October 3, 2006, during which Transmission Services presented information about costs, revenue forecasts, transmission products, pricing, and rate design issues. *See http://www.transmission.bpa.gov/Business/Rates_and_Tariff/archive.cfm.*

3. Transmission Rate Debt Optimization Program Demonstration

At the first annual Debt Optimization Program (DOP) and Debt Service Reassignment (DSR) meeting held on January 23, 2007, BPA presented a demonstration that transmission rates are no higher with the DOP than they would have been in the absence of the DOP, including DSR. The January meeting was held pursuant to an agreement among BPA, BPA Slice customers, and the Northwest Requirements Utilities. The transmission DOP demonstration is included in the Initial Proposal. The demonstration compares results from a base transmission repayment study that includes all debt management activities completed as of September 30, 2006, with a transmission repayment study that includes new DOP and DSR projections for FY 2007 and subsequent fiscal years.

C. Scope of the Transmission Rate Proceeding

Many of the decisions that determine Transmission Services's costs have been made or will be made in public review processes other than the transmission rate proceeding. This section provides guidance to the Hearing Officer as to those matters that are within the scope of the transmission rate proceeding and those that are outside the scope.

1. Spending Levels

As described above, Programs In Review workshops were held throughout the region to clarify, discuss, and provide the public the opportunity to comment orally and in writing on BPA's proposed capital expenditures and expenses for transmission. After considering all comments, the Administrator concludes the public process by issuing a close-out letter on spending levels for the 2008–2009 Rate Period. Those spending levels serve as the basis for the transmission capital and expense levels that are reflected in the Initial Proposal. Pursuant to section 1010.3(f) of BPA's Procedures, the Administrator directs the Hearing Officer to exclude from the record any evidence or arguments that seek in any way to challenge the appropriateness or reasonableness of the Administrator's decisions on transmission spending levels and sources of capital, including capital and expense levels reviewed in the Programs in Review public process. If any re-examination of sources of capital and spending levels is necessary, that re-examination will occur outside of the rate proceeding.

However, the foregoing direction to the Hearing Officer does not apply to the following matters: Customer advance capital funding, revenue financing, reserve financing, modeling of financing methods in rate case studies, interest rate forecasts, scheduled amortization, forecast depreciation, forecasts of system replacements for repayment studies, interest expense, expense and revenue uncertainties, and risks included in the risk analysis.

2. Issues Decided in Power Rate Proceeding

A number of issues that affect transmission and ancillary service rates have been addressed in BPA's 2007 Power Rate Case. On July 17, 2006, the Administrator established wholesale power rates for the period October 1, 2006, through September 30, 2009. On September 21, 2006, the Commission approved the proposed rates on an interim basis, pending full review for final approval. See 116 FERC ¶ 61,264. In the 2007 Power Rate Case, the Administrator made decisions regarding: the costs for generation inputs for ancillary services, including operating reserves, regulating reserves, and energy and generation imbalance; the generation costs of station service and remedial action schemes allocated to transmission; and the allocation to the power revenue requirement of the transmission costs of generation integration and generator step-up transformers associated with Federal system resources. The Administrator also decided that BPA's 2007 power rates would not include $20.4 million for each year in FY 2008 and 2009, as revenue from Transmission Services for generation supplied reactive power (GSR). Transmission Services will continue to pay Power Services $4.464 million each year in FY 2008 and 2009 for synchronous condensers. The Administrator also decided that Transmission Services will compensate Power Services for operating reserves at a unit price of $5.63/kW per month.

The Initial Proposal is consistent with the results of the Administrator's decisions on these and all other issues decided in the Power Rate Case, and will be reflected in all final decisions made in the 2008 Transmission Rate Case proceeding. The Administrator directs the Hearing Officer to exclude from the record all evidence and argument that seek in any way to address or revisit final decisions that were made in the 2007 Power Rate Case.

3. The National Environmental Policy Act

BPA is in the process of assessing the potential environmental effects of its Initial Proposal, as required by the National Environmental Policy Act (''NEPA''). The Administrator directs the Hearing Officer to exclude from the record all evidence and argument that seek in any way to address the potential environmental impacts of the rates being developed in the 2008 Transmission Rate Case. BPA's Business Plan Environmental Impact Statement (''Business Plan EIS''), completed in June 1995, evaluated the environmental impacts of a range of business plan alternatives that could be varied by applying various policy modules, including one for rates. Any combination of alternative policy modules should allow BPA to balance its costs and revenues. However, the EIS also addressed response strategies BPA could pursue if BPA's costs exceeded its revenues.

In August 1995, the BPA Administrator issued a Record of Decision (''Business Plan ROD'') that adopted the Market-Driven Alternative from the Business Plan EIS. This alternative was selected because, among other reasons, it allows BPA to: (1) Recover costs through rates; (2) competitively market BPA's products and services; (3) develop rates that meet customer needs for clarity and simplicity; (4) continue to meet BPA's legal mandates; and (5) avoid adverse environmental impacts. BPA also committed to apply as many response strategies as necessary when BPA's costs and revenues do not balance.

Because the Initial Proposal is likely to assist BPA in accomplishing these goals, the proposal appears consistent with these aspects of the Market-Driven Alternative. In addition, this rate proposal is similar to the type of rate designs and resulting rate levels evaluated in the Business Plan EIS; thus, implementation of this rate proposal is not expected to result in significantly different environmental impacts from those examined in the Business Plan EIS. Therefore, BPA expects that this rate proposal will fall within the scope of the Market-Driven Alternative that was evaluated in the Business Plan EIS and adopted in the Business Plan ROD. As part of the Administrator's Record of Decision that will be prepared regarding this 2008 Transmission Rate Case, BPA may tier

its decision under NEPA to the Business Plan ROD. However, depending upon the ongoing environmental review, BPA may, instead, issue another appropriate NEPA document.

Part III—Public Participation

A. Distinguishing Between ''Participants'' and ''Parties''

BPA distinguishes between ''participants in'' and ''parties to'' the rate case. Apart from the formal hearing process, BPA will receive written comments, views, opinions, and information from ''participants,'' who are defined in the BPA Procedures as persons who may submit comments without being subject to the duties of, or having the privileges of, parties. Participants written comments will be made part of the official record and will be considered by the Administrator. Participants are not entitled to participate in the pre-hearing conference; may not cross-examine parties' witnesses, seek discovery, or serve or be served with documents; and are not subject to the same procedural requirements as parties.

Written comments by participants will be included in the record if they are received by March 16, 2007. Written views, supporting information, questions, and arguments should include the designation TR–08 for the 2008 Transmission Rate Case and be submitted to BPA at the address listed in the **ADDRESSES** section of this notice.

Persons wishing to become parties to the proceedings included in this notice must file a petition to intervene. Petitioners may designate no more than two (2) representatives upon whom service of documents will be made. Petitions are due to the Transmission Hearing Clerk by 4:30 p.m., Pacific Time, on February 12, 2007. The petition should be submitted to BPA as described in the **ADDRESSES** section of this notice.

Petitions to intervene must include the designation TR–08 for the 2008 Transmission Rate Case and state the name and address of the person requesting party status and the person's interest in the proceeding. Petitioners must explain their interests in sufficient detail to permit the Hearing Officer to determine whether they have a relevant interest in the hearing. Pursuant to Rule 1010.1(d) of BPA's Procedures, BPA waives the requirement in Rule 1010.4(d) that an opposition to a petition to intervene be filed and served 24 hours before the pre-hearing conference. Any opposition to a petition to intervene may instead be made at the pre-hearing conference. Transmission Services or any party may oppose a petition to intervene. Persons who have been denied party status in any past BPA rate proceeding shall continue to be denied party status unless they establish a significant change of circumstances. All timely applications will be ruled on by the Hearing Officer. Late interventions are strongly disfavored. Opposition to a petition to intervene filed after the pre-hearing conference must be filed and received by BPA within two (2) days after service of the petition.

B. Developing the Record

The hearing record will include the transcripts of the hearing, written material entered into the record by Transmission Services and the parties, written comments from participants, and other material accepted into the record by the Hearing Officer. The Hearing Officer will review the record and will certify the record to the Administrator for decision.

The Administrator will develop a final rate proposal based on the record, information from the PIR, documents prepared pursuant to the National Environmental Policy Act and other environmental statutes, and such other material or information as may have been submitted to or developed by the Administrator. The Administrator will serve copies of the Final Record of Decision on all parties. After issuance of the Final Record of Decision, BPA will file its final rate proposal with the Commission for confirmation and approval.

During the rate proceeding, Transmission Services must continue to meet with customers in the ordinary course of business. To comport with the rate case procedural rule prohibiting ex parte communications, Transmission Services will provide notice of meetings involving rate case issues to provide an opportunity for participation by all rate case parties. Parties should be aware, however, that such meetings may be held on very short notice.

Part IV—Major Studies and Summary of Transmission Rate Proposal

A. Major Studies

1. *Revenue Requirement Study and Documentation*—This Study and Documentation include the calculation of transmission revenue requirements for the 2008–2009 Rate Period and demonstration of cost recovery for the transmission function. The Study includes an analysis of financial risks and a demonstration that transmission rates are no higher with the Debt Optimization Program than without it.

2. *Revenue Forecast*—The revenue forecasts at current and proposed transmission and ancillary service rates are based on forecasted sales and revenues for the 2008–2009 Rate Period. The revenue forecast is included in the Documentation.

B. Summary of Proposal

1. Transmission rates

Transmission Services is proposing five rate schedules for the use of its Integrated Network segment:

- *Formula Power Transmission (FPT–08.1 and FPT–08.3) rates*—The two FPT rates are based on the cost of specific types of facilities, including a distance component for the use of transmission lines, and are charged on a contract-demand basis. Included in the FPT rates are the costs of the two required ancillary services: Scheduling, System Control and Dispatch Service and Reactive Supply and Voltage Control from Generation Sources Service. The FPT–08.1 rate is proposed for contracts that allow annual rate adjustments, while the FPT–08.3 rate is proposed for contracts that allow a rate change only once every three years. In this Initial Proposal, the two FPT rates are set at the same level. The FPT–08.1 rate and the FPT–08.3 rate are proposed to be formula rates that are adjusted quarterly to reflect the quarterly change in the Reactive Supply and Voltage Control from Generation Sources Service rate, a small component of the cost basis of the FPT rate. Although Transmission Services has not offered new FPT wheeling contracts since the OATT was adopted, a number of FPT contracts will remain in effect during the 2008–2009 Rate Period.
- *Integration of Resources (IR–08) rate*—The IR rate is a postage-stamp, contract-demand rate for the use of the Integrated Network. Charges for the two required ancillary services are embedded in the IR rate. The proposed IR–08 rate is a formula rate that is adjusted quarterly to reflect the quarterly change in the Reactive Supply and Voltage Control from Generation Sources Service rate, a small component of the cost basis of the IR rate. A Short Distance Discount is available when resources are 75 miles or less from load. Although Transmission Services is not offering new IR contracts, some IR contracts will remain in effect during the rate period.
- *Network Integration Transmission (NT–08) rate*—The NT rate applies to customers taking Network Integration Transmission Service under the OATT. The NT rate schedule includes a Load Shaping Charge applied to the

customer's total load on the hour of the Monthly Transmission Peak Load and a Base Charge applied to the customer's total load less Customer-Served Load (CSL), if any. CSL is the amount of load that the customer agrees to serve without using its NT service. CSL is limited to the annual megawatt amount and resources specified in NT service agreements as of October 2005. Transmission Services intends to eliminate CSL as of October 1, 2011.

• *Point-to-Point (PTP–08) rate*—The PTP rate is a contract-demand rate that applies to customers taking PTP Transmission Service on BPA's Integrated Network under the OATT. There are separate PTP rates for long-term firm service; short-term firm and non-firm service; and hourly firm and non-firm service. The rate for long-term firm service includes a Short Distance Discount. All short-term and hourly PTP rates are downwardly flexible. In cases in which transmission service is curtailed or interrupted because of conditions on the FCRTS, the billing factor for Hourly Nonfirm Service, which otherwise is Reserved Capacity, will be (i) Reserved Capacity minus the curtailed capacity, when the interruption occurs before the close of the scheduling hour; and (ii) scheduled energy, when the interruption occurs after the close of the scheduling hour. In addition, the availability section of the PTP–08 rate schedule has been revised to add Conditional Firm Transmission Service, as applicable when such service is offered.

In addition to the five rates for network use, other proposed transmission rates include:

• *The Southern Intertie (IS–08) and Montana Intertie (IM–08) rates* are contract-demand rates that apply to customers taking PTP Transmission Service under the OATT on the Southern Intertie and Montana Intertie, respectively. These rates are structured in the same way as the PTP rate, except that no Short Distance Discount is available. Transmission Services is proposing similar revisions for these rates.

• *The Townsend-Garrison Transmission (TGT–08) rate and the Eastern Intertie rate (IE–08)* are developed pursuant to the Montana Intertie agreement.

• *The Use-of-Facilities (UFT–08) rate* establishes a formula for charging for the use of a specific facility based on the annual cost of that facility.

• *The Advance Funding (AF–08) rate* allows Transmission Services to collect the capital and related costs of specific facilities through an advance-funding mechanism.

2. Ancillary Services Rates

In addition to the rate level changes specified in the Settlement Agreement, other aspects of the Ancillary Services and Control Area Services rates are being revised in accordance with the Settlement Agreement as follows:

• The billing factors for *Scheduling, System Control, and Dispatch Service* and *Reactive Supply and Voltage Control from Generation Sources Service* rates are being revised to clarify that, when there is an unauthorized increase, they are increased by the amount of the Unauthorized Increase Charge. The rate that is applied to the billing factors, however, remains the same.

• *The Reactive Supply and Voltage Control from Generation Sources Service* rate is a formula rate that is determined quarterly beginning October 1, 2007, and is being revised to recover only the cost, if any, of paying reactive rates to non-federal generators and of adjustments for self-supply of reactive power.

• The rate for *Regulation and Frequency Response Service* is fixed for the Rate Period.

• The rates for *Operating Reserves—Spinning and Supplemental* are fixed for the Rate Period. In addition to the rate for customers who elect to purchase Operating Reserves from BPA Transmission Services for the rate period, the rate schedule is being revised to include a charge applicable to customers who elect to self-supply or acquire Operating Reserves from third-party suppliers for the Rate Period but then default on their self-supply or third-party supply obligations.

3. Other Rates and Charges

Other charges that may apply to a customer's transmission service include a Delivery Charge for the use of low-voltage delivery substations, a Power Factor Penalty Charge, Incremental Cost Rates for transmission requests that require the construction of new facilities, a Failure to Comply Charge for failure to comply with a curtailment, redispatch, or load shedding order, and an Unauthorized Increase Charge for customers who exceed their contracted capacity amounts. The Reservation Fee is being revised to eliminate the application of the rate to deferred service. The Reservation Fee will apply only for extensions of the service commencement date of a long-term firm PTP transmission service reservation.

Part V—2008 Transmission and Ancillary Service Rate Schedules

BPA's proposed 2008 Transmission and Ancillary Service Rate Schedules are available for viewing and downloading on Transmission Service's Web site at: *http://www.transmission.bpa.gov/Business/Rates%5Fand%5FTariff/*. A copy of the proposed rate schedules also is available for viewing in BPA's Public Reference Room at the BPA Headquarters, 1st floor, 905 NE 11th Ave., Portland, Oregon.

Issued in Portland, Oregon, on January 25, 2007.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. E7–1773 Filed 2–2–07; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2007–0013; FRL–8111–7]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) will be held on March 20–22, 2007, in Irvine, CA. At this meeting, the NAC/AEGL Committee will address, as time permits, the various aspects of the acute toxicity and the development of Acute Exposure Guideline Levels (AEGLs) for the following chemicals: Acetonitrile; acrylic acid; acrylonitrile; allyl chloride; boron tribromide; bromine chloride; carbonyl fluoride; chloroacetonitrile; chlorobenzene; diketene; ethylene fluorohydrin; isobutyronitrile; malononitrile; methanol; *N*,*N*-dimethylformamide; oxygen difluoride; propionitrile; propylene oxide; silicon tetrafluoride; stibine; tetrachloroethylene; 1,1,1-trichloroethane; and toluene.

DATES: A meeting of the NAC/AEGL Committee will be held from 10 a.m. to 5 p.m. on March 20, 2007; from 8:30 a.m. to 5:30 p.m. on March 21, 2007; and from 8 a.m. to noon on March 22, 2007.

ADDRESSES: The meeting will be held at the Beckman Center, 100 Academy, Irvine, CA 92617.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention

and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Paul S. Tobin, Designated Federal Officer (DFO), Economics, Exposure, and Technology Division (7406M), Office of Pollution Prevention and Toxics, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8557; e-mail address: *tobin.paul@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments Section 112r. It is possible that other Federal agencies besides EPA, as well as State agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. All documents in the docket are listed in the docket's index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Meeting Procedures

For additional information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission of information on chemicals to be discussed at the meeting, contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical-specific information should be directed to the DFO.

III. Future Meetings

Another meeting of the NAC/AEGL Committee is scheduled for June 2007 and a future **Federal Register** notice will provide details of the meeting site, dates, and chemicals to be addressed. The following chemicals may be addressed at this June meeting: Allyltrichlorosilane, amyltrichlorosilane, butyltrichlorosilane, BZ (3-quinuclidinyl benzilate), chloromethyltrichlorosilane, chlorosulfonic acid, dichlorosilane, diphenyldichlorosilane, dodecyltrichlorosilane, fluorosulfonic acid, hexyltrichlorosilane, magnesium diamide, methanesulfonylchloride, nonyltrichlorosilane, octadecyltrichlorosilane, octyltrichlorosilane, osmium tetroxide, pentaborane, propyltrichlorosilane, silicon tetrachloride, trichloro(dichlorophenyl)silane, trichlorosilane, and vinyltrichlorosilane.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health.

Dated: January 29, 2007.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. E7–1792 Filed 2–2–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8275–6]

Science Advisory Board Staff Office; EPA Clean Air Scientific Advisory Committee (CASAC); CASAC Ozone Review Panel; Notification of a Public Advisory Committee Meeting (Teleconference)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office is announcing a public teleconference of the Clean Air Scientific Advisory Committee (CASAC) Ozone Review Panel (CASAC Panel) to review EPA's Final Review of the National Ambient Air Quality Standards for Ozone: Policy Assessment of Scientific and Technical Information (Final Ozone Staff Paper, January 2007) on March 5, 2007 from 1 to 5 p.m. (Eastern Time).

FOR FURTHER INFORMATION CONTACT: Mr. Fred Butterfield, Designated Federal Officer (DFO). Mr. Butterfield may be contacted at the EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or via telephone/voice mail: (202) 343–9994; fax: (202) 233–0643; or e-mail at: *butterfield.fred@epa.gov*. General information concerning the CASAC or the EPA SAB can be found on the EPA Web site at: *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION:

Background

The EPA Science Advisory Board Staff Office announced a public teleconference of the Clean Air Scientific Advisory Committee (CASAC) Ozone Review Panel (CASAC Panel) to review EPA's Final Review of the National Ambient Air Quality Standards for Ozone: Policy Assessment of Scientific and Technical Information in the December 27, 2006 **Federal Register** (71 FR 77742). The present notice moves the date of the subject meeting to

Monday, March 5, 2007, from 1 to 5 p.m. (Eastern Time). Additional information regarding availability of meeting materials, procedures for providing public input, and accessibility are provided in the December 27, 2006 **Federal Register**, or from the DFO at the contact information provided above.

Dated: January 29, 2007.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E7–1791 Filed 2–2–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[FCC 06–177]

Notice of Debarment

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (Bureau) debars Premio, Inc. (Premio) from all activities associated with the schools and libraries universal service support mechanism, also known as the E-Rate program. Premio pled guilty to and was convicted of serious fraud-related felonies against the E-Rate program. We find Premio's conduct merits a debarment of at least three years, as contemplated by our debarment rule, but in light of several important factors, we will impose a debarment period of one year.

DATES: Debarment commences on the Premio, Inc. receives the debarment letter or whichever date comes first, for a period of one year.

FOR FURTHER INFORMATION CONTACT: Diana Lee, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–A265, 445 12th Street, SW., Washington, DC 20554. Diana Lee may be contacted by phone at 202–418–1420 or e-mail at *diana.lee@fcc.gov*.

SUPPLEMENTARY INFORMATION: This a summary of the Commission's Notice of Debarment, released January 22, 2007. As an additional precaution to protect the E-Rate program, we put in place two monitoring measures to ensure Premio's compliance upon its re-entry into the E-Rate program, in the event that Premio re-enters the E-Rate program during its three year probation period. First, we order USAC to review with heightened scrutiny Premio's applications submitted during the first two funding years after re-entry.[1] Second, we order the Administrator to conduct automatic annual audits regarding Premio's compliance with the Act and the Commission's rules governing the E-Rate program, for each of the first two funding periods upon Premio's re-entry. We find these additional precautionary measures are necessary to ensure that E-Rate funds are used only for their intended purpose and that the program is not subject to additional waste, fraud, or abuse. The full text of this Notice is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A–257, 445 12th Street, SW., Washington, DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCP), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The complete item is also available on the Commission's Web site at *http://www.fcc.gov/eb*.

Federal Communications Commission.

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

[FR Doc. E7–1795 Filed 2–2–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Moratorium on Certain Industrial Bank Applications and Notices

AGENCY: Federal Deposit Insurance Corporation (FDIC)

ACTION: Notice; Limited Extension of Moratorium.

SUMMARY: This notice announces a one-year extension of the termination date of the FDIC's existing moratorium on industrial loan companies and industrial banks [1] (collectively, ''industrial banks'') for deposit insurance applications and change in control notices with respect to certain industrial banks. The extended moratorium only applies to applications for deposit insurance and change in control notices with respect to industrial banks that will become subsidiaries of companies engaged in non-financial activities [2] (''commercial activities'').

Although the FDIC's existing industrial bank moratorium was originally set to expire on January 31, 2007 for all industrial banks, as a result of the extension, the moratorium will now expire on January 31, 2008 for certain industrial banks. The extended moratorium does not apply to any application for deposit insurance or change in control notice with respect to any industrial bank that will not become a subsidiary of a company, or any industrial bank that will become a subsidiary of a company engaged only in financial activities. The FDIC is also publishing elsewhere in the **Federal Register** today a notice of proposed rulemaking that proposes certain requirements on any industrial bank that will become a subsidiary of a company that is engaged only in financial activities and is not subject to consolidated bank supervision by the Federal Reserve Board (FRB) or the Office of Thrift Supervision (OTS) (hereinafter referred to as ''Federal Consolidated Bank Supervision'').

DATES: The extended moratorium is effective through January 31, 2008.

FOR FURTHER INFORMATION CONTACT: Robert C. Fick, Counsel, (202) 898–8962 or Thomas P. Bolt, Counsel, (202) 898–6750, Federal Deposit Insurance Corporation, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

Industrial banks were first chartered in the early 1900's as small loan companies for industrial workers. Over time some of the chartering states expanded the powers of their industrial banks to the extent that some industrial banks now have generally the same powers as state commercial banks.

[1] *See Fifth Report and Order,* 19 FCC Rcd at 15822–23, para. 44. We note that the Commission currently is considering what particular requirements, if any, that it should apply in conducting heightened review of E-Rate program participants. *See Universal Service Fund Oversight NPRM, 20 FCC Rcd at 11345, para. 91.*

[1] For purposes of the extended moratorium, the terms ''industrial loan company'' and ''industrial bank'' mean any insured State bank that is an industrial bank, industrial loan company, or other similar institution that is excluded from the definition of ''bank'' in the Bank Holding Company Act of 1956 (BHCA) pursuant to section 2(c)(2)(H) of the BHCA, 12 U.S.C. 1841(c)(2)(H).

[2] For purposes of the extended moratorium, the term ''financial activity'' includes: (i) Banking, managing or controlling banks or savings associations; and (ii) any activity permissible for financial holding companies under 12 U.S.C. 1843(k), any specific activity that is listed as permissible for bank holding companies under 12 U.S.C. 1843(c), as well as activities that the Federal Reserve Board (FRB) has permitted for bank holding companies under 12 CFR 225.28 and 225.86, and any activity permissible for all savings and loan holding companies under 12 U.S.C. 1467a(c). The term ''non-financial activity'' is any other activity. The FDIC intends to follow the written guidance of the FRB and the Office of Thrift Supervision (OTS) regarding permissible holding company activities in its interpretations of the term ''financial activity'' and to consult with the FRB and/or OTS before making any decisions.

Since the passage of the Competitive Equality Banking Act of 1987 (CEBA),[3] the industrial bank industry has changed significantly. Between 1987 and 2006 total assets held by industrial banks grew from $4.2 billion to $177 billion.

Since January 1, 2000, 24 industrial banks became insured.[4] As of January 30, 2007, there were fifty-eight insured industrial banks with aggregate total assets of approximately $177 billion.[5] Six industrial banks reported total assets of $10 billion or more; eleven other industrial banks reported total assets of $1 billion or more. The remaining forty-one institutions, on average, reported total assets of approximately $231.8 million. Forty-five of those fifty-eight operated in Utah and California.[6] Of the fifty-eight existing industrial banks, forty-three were either controlled by one or more individuals or controlled by a parent company whose business is financial in nature. As of January 30, 2007, thirty-one of the fifty-eight existing industrial banks were owned by companies that were engaged solely in financial activities and that were not subject to Federal Consolidated Bank Supervision; such companies are hereinafter referred to as ''Non-FCBS Financial Companies.'' Eight of the fifty-eight industrial banks (representing approximately sixty-nine percent of industrial bank industry assets) were owned by companies that are engaged solely in financial activities and are subject to consolidated supervision by the FRB or the OTS. Four of the fifty-eight industrial banks were owned by individuals. Fifteen industrial banks were subsidiaries of holding companies that are non-financial in nature, *i.e.*, commercial.

In 2005, the Government Accountability Office (GAO) expressed its concern that industrial banks owned by commercial companies or other entities without a Federal consolidated supervisor created an uneven playing field when compared to banks and thrifts owned by holding companies subject to Federal consolidated supervision.[7] The concerns regarding the lack of consolidated supervision and the possible limitations of the FDIC's authority echoed those previously expressed by the FDIC's Office of Inspector General (OIG) in a 2004 report.[8]

Some industrial banks continue to be small, community-focused institutions. However, the FDIC has noted a recent increase in the number of applications for deposit insurance and notices of change in control with respect to industrial banks that would be affiliated with commercial companies or other entities that would not be subject to Federal Consolidated Bank Supervision. Such institutions are often large organizations that tend to have complex business plans. Their subsidiary industrial banks tend to provide specialty lending programs or financial services or other support to the holding company. Whatever their purpose or structure, the industrial bank charter has generated a significant amount of public interest in recent years as various entities have explored the feasibility and business opportunities associated with including an industrial bank as part of their operations.

In 2006, the FDIC received more than 13,800 comment letters regarding the proposed Wal-Mart Bank's 2005 deposit insurance application.[9] Most of these comments expressed opposition to granting deposit insurance with respect to this particular applicant; however, some commenters raised more universal concerns about industrial banks. Over 640 of the more general comments were specifically focused on the risk posed to the deposit insurance fund by industrial banks owned by commercial companies or by holding companies without a Federal consolidated bank supervisor. Similar sentiments were expressed by witnesses during three days of public hearings held by the FDIC regarding the Wal-Mart application. In addition, the Home Depot also filed a change in control notice in connection with its proposed acquisition of EnerBank, a Utah industrial bank. In response to the request for public comment on the change in control notice, the FDIC received approximately 830 comment letters; almost all of them expressed opposition to the proposed acquisition.

Congress also has had a continuing interest in the industrial bank charter. Most recently, on July 12, 2006, the House Committee on Financial Services (Committee) held a hearing regarding industrial banks. At the hearing, the General Counsels of the FDIC and FRB testified before the Committee regarding the history, characteristics, current industry profile, and supervision of industrial banks.[10] The FDIC's testimony noted that today's industrial banks are owned by a diverse group of financial and commercial entities. Among industrial banks owned by such entities are those that serve a particular lending, funding, or processing function within a larger organizational structure, and those that directly support one or more affiliate's commercial activities. The business plans for these industrial banks differ substantially from the consumer lending focus of the original industrial banks.

Currently, eight industrial bank deposit insurance applications are pending before the FDIC. Also, in 2006 the FDIC received three additional deposit insurance applications that were either returned or withdrawn. In addition, the FDIC received seven change in control notices for the acquisition of industrial banks; five of which have been returned or withdrawn. None of the potential parent companies would be subject to Federal Consolidated Bank Supervision, and at least nine of the eighteen potential parent companies are engaged in activities that are considered commercial in nature.

To evaluate the concerns and issues raised with respect to industrial banks, on July 28, 2006, the FDIC imposed a six-month moratorium on FDIC action with respect to certain industrial bank applications and notices.[11] The FDIC declared the moratorium to enable it to further evaluate (i) Industry developments, (ii) the various issues, facts, and arguments raised with respect to the industrial bank industry, (iii)

[3] Public Law 100–86, 101 Stat. 552 (codified as amended in various sections of title 12 of the U.S. Code)

[4] During 2000, 4 new industrial banks were insured; 2 during each of 2001 and 2002; 5 during 2003; 6 during 2004; 4 during 2005; and 1 in 2006.

[5] Based on reported assets as of September 30, 2006, the most recent reported data.

[6] Industrial banks also operate in Colorado, Hawaii, Indiana, Minnesota and Nevada.

[7] U.S. Gov't Accountability Office, GAO–05–621, Industrial Loan Corporations: Recent Asset Growth and Commercial Interest Highlight Differences in Regulatory Authority 79–80 (2005) (hereinafter ''GAO Report'').

[8] See Federal Deposit Insurance Corporation Office of Inspector General, Report No. 2004–048, The Division of Supervision and Consumer Protection's Approach for Supervising Limited-Charter Depository Institutions (2004) (hereinafter ''OIG Report'').

[9] See the FDIC's Web site at *http://www.fdic.gov/regulations/laws/walmart/*.

[10] Industrial Loan Companies: A Review of Charter, Ownership, and Supervision Issues: Hearing Before the H. Comm. on Financial Services, 109th Cong. (2006). The Committee also heard testimony from G. Edward Leary, Commissioner for the Utah Department of Financial Institutions; Rick Hilman, Director of Financial Markets and Community Investment, U.S. Government Accountability Office; George Sutton, Former Commissioner for the Utah Department of Financial Institutions; Terry Jorde, Chairman, President, and CEO of CountryBank USA, Chairman of ICBA; John L. Douglas, Partner, Alston & Bird; Arthur C. Johnson, Chairman and CEO of United Bank of Michigan; Prof. Lawrence J. White, Professor of Economics, Stern School of Business of New York University; Michael J. Wilson, Director, Legislative and Political Action Department, United Food and Commercial International Union. Also, several organizations submitted record statements.

[11] See Moratorium on Certain Industrial Loan Company Applications and Notices, 71 FR 43482 (August 1, 2006).

whether there are emerging safety and soundness issues or policy issues involving industrial banks or other risks to the insurance fund, and (iv) whether statutory, regulatory, or policy changes should be made in the FDIC's oversight of industrial banks in order to protect the deposit insurance fund or important Congressional objectives.[12]

Thereafter, on August 23, 2006, the FDIC published in the **Federal Register** a request for public comment on twelve questions.[13] Among other things, the FDIC sought public comment on what modifications, if any, should be made to its regulations in light of the changing industrial bank industry; how and whether the attributes of consolidated supervision affect the safety and soundness of either industrial banks or the Deposit Insurance Fund; and how, and whether, the FDIC should differentiate and assess possible risks associated with financial or commercial ownership of industrial banks.

The FDIC received over 12,600 comment letters in response to the Request for Public Comment during the comment period.[14] Approximately 12,485 comments were generated by what appears to be organized campaigns either supporting or opposing the proposed industrial bank to be owned by Wal-Mart or the proposed acquisition of Enerbank, also an industrial bank, by The Home Depot. Of this total, approximately 82 percent generally were opposed to the ownership of industrial banks by Wal-Mart or other commercial companies. The remaining comment letters were sent by individuals, law firms, community banks, financial services trade associations, existing and proposed industrial banks or their parent companies, the Conference of State Bank Supervisors, and two members of Congress. Of the total comments received, seventy-one commenters addressed specific substantive issues concerning the industrial bank industry and its regulation.

The commenters who favored the current state of the industrial bank industry generally believed that the risks commonly associated with commercial company affiliations are overstated and that industrial banks affiliated with commercial companies generally maintain safe and prudent business relationships and financial and managerial support systems. They felt that the current restrictions on transactions with affiliates and tying provide ample protection for the industrial bank. The commenters who expressed a negative or neutral view of the industrial bank industry generally believed that affiliations with commercial companies and other entities not subject to consolidated supervision presented safety and soundness problems and unacceptable risks to the Deposit Insurance Fund by increasing the potential for conflicts of interest, excessive dependence on such affiliates, and tying. These commenters supported extending the moratorium until Congress acts on legislation to prohibit industrial banks from affiliating with non-financial entities. Some urged the FDIC to issue regulations restricting industrial banks from affiliating with non-financial entities. Still others suggested that the conditions imposed by the FDIC in the past were insufficient, standing alone, to offer adequate protections to the Deposit Insurance Fund. Several commenters cited the competitive advantages—in access to capital, customers, and marketing opportunities—that exist when industrial banks are owned by commercial entities or otherwise lack a Federal Consolidated Bank Supervisor.

The FDIC's experience and the comments suggest no risk or other possible harm that is unique to the industrial bank charter. Rather, the concerns that have been raised focus on the ownership of the industrial bank and on the proposed industrial bank's business model or plan. Consequently, the FDIC's analysis of how to proceed focuses primarily on the proposed owners of industrial banks.

II. The Extended Moratorium

Scope

The original six-month moratorium imposed on July 28, 2006, deferred FDIC action on deposit insurance applications and change in control notices with respect to all proposed and existing industrial banks. However, recently the FDIC has noted a marked increase in deposit insurance applications for, and change-in-control notices with respect to, industrial banks that would be affiliated with commercial concerns and other companies that would not have a Federal Consolidated Bank Supervisor. This trend has led to heightened concerns by some members of Congress and commenters regarding the lack of Federal Consolidated Bank Supervision, the mixing of banking and commerce, and the potential for an ''uneven playing field.'' Both the FDIC's observations and the bulk of the comments received indicate that these concerns about industrial banks focus on commercial-company ownership and/or the lack of Federal Consolidated Bank Supervision.

Financial companies that are subject to Federal Consolidated Bank Supervision (''FCBS Financial Companies''), such as bank holding companies, financial holding companies, and savings and loan holding companies generally do not present these same issues. Many of the statutory and regulatory tools available to Federal Consolidated Bank Supervisors can substantially restrict the extent to which such companies may engage in commercial activities or affiliate with commercial companies. Moreover, the examination, reporting, and monitoring systems of Federal Consolidated Bank Supervisors can be effective tools in preventing an affiliate's activities from causing a safety and soundness risk to the bank. Finally, holding companies that are expected to serve as a source of strength to their subsidiary insured depository institutions provide an important resource for an insured bank in need of additional capital. As a result, the FDIC believes that this class of industrial bank ownership does not need further study and that the supervisory tools currently available to the FDIC are adequate.

Generally, industrial banks owned by individuals also do not present the same issues that industrial banks owned by commercial companies present. In the case of an industrial bank owned by individuals, there is neither a parent company nor any subsidiary of a parent company that could present an opportunity for a safety and soundness risk or a conflict of interest with the industrial bank.[15] Consequently, at this time, the FDIC believes that ownership of industrial banks by individuals presents no extraordinary issues that deserve further study or consideration.

Importantly, industrial banks to be owned by Non-FCBS Financial Companies present some of the same issues that industrial banks owned by commercial companies do. However, the FDIC believes that those issues can be controlled or minimized in such cases. In addition, some such companies are subject to well-established regulatory authorities, *e.g.*, by state insurance commissions or the U.S. Securities and Exchange Commission. Such Non-FCBS Financial Companies engage only in financial activities and, so, do not engage in commercial activities either directly or indirectly.

[12] Id.

[13] See Industrial Loan Companies and Industrial Banks, 71 FR 49456 (August 23, 2006).

[14] See *http://www.fdic.gov/regulations/laws/federal/2006/06comilc.html.*

[15] Since there is no parent company of the industrial bank, the BHCA does not apply.

However, since these companies will not be subject to Federal Consolidated Bank Supervision, the FDIC believes that safeguards should be implemented that provide adequate protections for the safety and soundness of insured industrial banks and for the protection of the Deposit Insurance Fund. Through the publication of a notice of proposed rulemaking for part 354, the FDIC is proposing conditions and requirements to provide safeguards such as examination of, and reporting by, such companies and their subsidiaries, and binding commitments to serve as a resource for additional capital for the industrial bank subsidiaries. We anticipate that the proposed regulations will provide the safeguards that the FDIC believes could be helpful in identifying and avoiding or controlling, on a consolidated basis, the safety and soundness risks and the risks to the Deposit Insurance Fund that may result from that kind of company-ownership model.

Industrial banks that are to be owned or controlled, directly or indirectly, by commercial companies, however, continue to present concerns. Under current law, commercial companies would not be allowed to acquire a thrift or a bank, other than an industrial bank, and would not have a Federal Consolidated Bank Supervisor. In many instances, commercial activities are the predominant, if not sole, business of such companies. In such circumstances, not only would consolidated supervision not be present, but the current supervisory process and infrastructure may not produce the safeguards that the FDIC believes could be helpful in identifying and avoiding or controlling, on a consolidated basis, the safety and soundness risks and the risks to the Deposit Insurance Fund that may result from that kind of company-ownership model. The recent trend of increased interest in industrial banks by entities engaged in commercial activities makes an evaluation of the application of current supervisory structures to such owners timely and appropriate. As a result, the FDIC believes that this class of companies needs further study and consideration on two key issues: (1) What, if any, increased risks are created by ownership by commercial companies and (2) how well do current supervisory models apply to such owners.

Many members of Congress have urged the FDIC to extend the moratorium with respect to industrial banks that would be controlled by commercial firms. On December 7, 2006 one hundred and seven members of the House of Representatives sent a letter to the FDIC urging the FDIC to extend the moratorium for at least an additional six months. The Representatives requested the extension ''to allow the 110th Congress an opportunity to act on this important public policy issue.'' While the FDIC is not expressing any conclusion about the propriety of ownership of industrial banks by commercial companies, it is appropriate to provide Congress with a reasonable period for consideration of these developments and, if necessary, revisions to existing statutory authority.

Furthermore, even though the FDIC has authority to act on any particular application, notice, or request involving an industrial bank, the FDIC has continuing concerns regarding the commercial ownership of industrial banks and the lack of a Federal Consolidated Bank Supervisor. The FDIC recognizes that commercial companies that currently own industrial banks will not be affected by the extended moratorium and that there may be concerns that this results in disparate treatment for those commercial companies now seeking to control ILCs. However, the FDIC has considered the potential impact of the extended moratorium on individual applicants and proponents, including commercial companies, and because the issues raised by such ownership have the potential for broad and substantial impact on the entire banking system and, potentially, the nation's economy, the FDIC believes that Congressional resolution of these issues may be appropriate.

The FDIC also recognizes that the moratorium may appear inconsistent with specific timetables for agency action, including processing of approvals. However, adherence to a strict statutory timeline without an opportunity to re-evaluate its standards for determining the public interest risks frustrating the substantive policies the agency is charged with promoting. Consequently, the FDIC has concluded that a limited moratorium should be extended through January 31, 2008. The extension will both allow the FDIC needed time to evaluate the various issues, facts, and arguments associated with the ownership of an industrial bank by a commercial company, and allow Congress time to consider legislation concerning industrial banks.

Summary

For the reasons discussed above, the scope of the extended moratorium is narrower than the scope of the FDIC's original six-month moratorium. Under the extended moratorium, the FDIC will take no action to accept, approve, or deny any application for deposit insurance, or to accept, disapprove, or issue a letter of intent not to disapprove any change in control notice, with respect to any industrial bank that would become a direct or indirect subsidiary of a company engaged in commercial activities. While to date, commercially owned industrial banks have not resulted in serious problems, in light of the concerns that have been expressed and the recent trend of increased ownership of industrial banks by commercial entities, the FDIC will continue to monitor closely existing industrial banks that currently are controlled by commercial companies.

Thus, the extended moratorium will not apply to, and the FDIC may proceed with action on, any application for deposit insurance or any change in control notice with respect to: (i) Any industrial bank that would become a subsidiary of a company engaged only in financial activities that is subject to Federal Consolidated Bank Supervision by the FRB, or the OTS (*i.e.*, a FCBS Financial Company); (ii) any industrial bank that would not become a subsidiary of any company; or (iii) any industrial bank that would become a subsidiary of a company engaged only in financial activities that is not subject to Federal Consolidated Bank Supervision by the FRB or the OTS (*i.e.*, a Non-FCBS Financial Company). While the notice of proposed rulemaking for part 354 is pending, the FDIC will consider deposit insurance applications and change in control notices with respect to industrial banks within group (iii) above on a case-by-case basis. After any final rules are adopted, the FDIC will consider requests to modify any conditions and requirements agreed to during the period between issuance of the proposed rule and the effective date of the final rules to conform such conditions and requirements to those in the final rules.

During the extended moratorium any application, notice or request with respect to any industrial bank that is not subject to the moratorium will be acted upon only by the FDIC's Board of Directors.

The extended moratorium is effective through January 31, 2008 for applications for deposit insurance and change in control notices with respect to industrial banks that will become subsidiaries of companies engaged in commercial activities.

Dated at Washington DC, this 31st day of January 2007.

By Order of the Board of Directors.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E7–1853 Filed 2–2–07; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

[Notice 2007–2]

Price Index Increases for Expenditure and Contribution Limitations

AGENCY: Federal Election Commission.

ACTION: Notice of expenditure and contribution limitation increases.

SUMMARY: As mandated by provisions of the Bipartisan Campaign Reform Act of 2002 (''BCRA''), the Federal Election Commission (''FEC'' or ''the Commission'') is adjusting certain expenditure and contribution limitations set forth in the Federal Election Campaign Act of 1971, as amended (''FECA'' or ''the Act''), to account for increases in the consumer price index. Additional details appear in the supplemental information that follows.

EFFECTIVE DATE: The effective date for the limit at 2 U.S.C. 441a(a)(1)(A) is November 8, 2006. The effective date for the limits at 2 U.S.C. 441a(a)(1)(B), 441a(a)(3), 441a(d) and 441a(h) is January 1, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory J. Scott, Information Division, 999 E Street, NW., Washington, DC 20463; (202) 694–1100 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: Under the Federal Election Campaign Act of 1971, 2 U.S.C. 431 *et seq.*, as amended by the Bipartisan Campaign Reform Act of 2002, [1] coordinated party expenditure limits (2 U.S.C. 441a(d)(3)(A) and (B)), and certain contribution limits (2 U.S.C. 441a(a)(1)(A) and (B), (a)(3), (d) and (h)), are adjusted either annually or biennially by the increase in the consumer price index. *See* 2 U.S.C. 441a(c)(1) and 11 CFR 110.17. The Commission is publishing this notice to announce these limits for 2007 or the 2007–2008 election cycle.

Coordinated Party Expenditure Limits for 2007

Under 2 U.S.C. 441a(c), the Commission must adjust the expenditure limitations established by 2 U.S.C. 441a(d) (the limits on expenditures by national party committees, state party committees, or their subordinate committees in connection with the general election campaign of candidates for Federal office) annually to account for inflation. This expenditure limitation is increased by the percent difference between the price index, as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index for the base period (calendar year 1974).

1. Expenditure Limitation for House of Representatives

Both the national and state party committees have an expenditure limitation for each general election held to fill a seat in the House of Representatives. The formula used to calculate the expenditure limitation in a state with more than one congressional district multiplies the base figure of $10,000 by the price index (4.089), rounding to the nearest $100. Based upon this formula, the expenditure limitation for 2007 House elections in those states is $40,900. The formula used to calculate the expenditure limitation in a state with only one congressional district is the greater of: the base figure ($20,000) multiplied by the price index (4.089) (which totals $81,800); or $0.02 multiplied by the voting age population (''VAP'') of the state, multiplied by the price index. Amounts are rounded to the nearest $100. Based upon this formula, the expenditure limitation for 2007 House elections in these states is $81,800. *See* 2 U.S.C. 441a(d)(3) and 11 CFR 109.32(b).

2. Expenditure Limitation for Senate

Both the national and state party committees have an expenditure limitation for a general election held to fill a seat in the Senate. The formula used to calculate the Senate expenditure limitation considers not only the price index but also the VAP of the state. The expenditure limitation is the greater of: the base figure ($20,000) multiplied by the price index (which totals $81,800); or $0.02 multiplied by the VAP of the state, multiplied by the price index. Amounts are rounded to the nearest $100. *See* 2 U.S.C. 441a(d)(3) and 11 CFR 109.32(b). The chart below provides the state-by-state breakdown of the 2007 expenditure limitations for Senate elections.

SENATE EXPENDITURE LIMITATIONS—2007 ELECTIONS

State	VAP (in thousands)	VAP × .02 multiplied by the price index (4.089)	Expenditure limit (the greater of the amount in column 3 or $81,800)
Alabama	3,485	$285,000	$285,000
Alaska	489	40,000	81,800
Arizona	4,538	371,100	371,100
Arkansas	2,120	173,400	173,400
California	26,925	2,201,900	2,201,900
Colorado	3,584	293,100	293,100
Connecticut	2,687	219,700	219,700
Delaware	650	53,200	81,800
Florida	14,068	1,150,500	1,150,500
Georgia	6,909	565,000	565,000
Hawaii	987	80,700	81,800
Idaho	1,072	87,700	87,700
Illinois	9,617	786,500	786,500
Indiana	4,736	387,300	387,300
Iowa	2,272	185,800	185,800
Kansas	2,068	169,100	169,100

[1] Public Law 107–155, 116 Stat. 81 (Mar. 27, 2002).

SENATE EXPENDITURE LIMITATIONS—2007 ELECTIONS—Continued

State	VAP (in thousands)	VAP × .02 multiplied by the price index (4.089)	Expenditure limit (the greater of the amount in column 3 or $81,800)
Kentucky	3,207	262,300	262,300
Louisiana	3,198	261,500	261,500
Maine	1,041	85,100	85,100
Maryland	4,255	348,000	348,000
Massachusetts	4,988	407,900	407,900
Michigan	7,617	622,900	622,900
Minnesota	3,910	319,800	319,800
Mississippi	2,151	175,900	175,900
Missouri	4,426	362,000	362,000
Montana	727	59,500	81,800
Nebraska	1,323	108,200	108,200
Nevada	1,861	152,200	152,200
New Hampshire	1,017	83,200	83,200
New Jersey	6,635	542,600	542,600
New Mexico	1,446	118,300	118,300
New York	14,792	1,209,700	1,209,700
North Carolina	6,701	548,000	548,000
North Dakota	491	40,200	81,800
Ohio	8,708	712,100	712,100
Oklahoma	2,685	219,600	219,600
Oregon	2,844	232,600	232,600
Pennsylvania	9,636	788,000	788,000
Rhode Island	830	67,900	81,800
South Carolina	3,282	268,400	268,400
South Dakota	587	48,000	81,800
Tennessee	4,596	375,900	375,900
Texas	17,014	1,391,400	1,391,400
Utah	1,759	143,900	143,900
Vermont	491	40,200	81,800
Virginia	5,836	477,300	477,300
Washington	4,870	398,300	398,300
West Virginia	1,429	116,900	116,900
Wisconsin	4,244	347,100	347,100
Wyoming	393	32,100	81,800

Contribution Limitation Increases for Individuals, Nonmulticandidate Committees and for Certain Political Party Committees Giving to U.S. Senate Candidates for 2007–2008 Election Cycle

BCRA amended the Act to extend inflation indexing to: (1) The limitations on contributions made by persons under 2 U.S.C. 441a(a)(1)(A) (contributions to candidates) and 441a(a)(1)(B) (contributions to national party committees); (2) the biennial aggregate contribution limits applicable to individuals under 2 U.S.C. 441a(a)(3); and (3) the limitation on contributions made to U.S. Senate candidates by certain political party committees at 2 U.S.C. 441a(h) and 2 U.S.C. 441a(c). These contribution limitations are increased by multiplying the respective statutory contribution amount by the percent difference between the price index, as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index for the base period (calendar year 2001). The resulting amount is rounded to the nearest multiple of $100. *See* 2 U.S.C. 441a(c) and 11 CFR 110.17(b). The Commission has calculated the applicable percent difference to be 13.9 percent. Contribution limitations shall be adjusted accordingly:

Statutory provision	Statutory amount	2007–2008 limitation
2 U.S.C. 441a(a)(1)(A)	$2,000	$2,300
2 U.S.C. 441a(a)(1)(B)	25,000	28,500
2 U.S.C. 441a(a)(3)(A)	37,500	42,700
2 U.S.C. 441a(a)(3)(B)	57,500	65,500
2 U.S.C. 441a(h)	35,000	39,900

The increased limitation at 2 U.S.C. 441a(a)(1)(A) is to be in effect for the 2 year period beginning on the first day following the date of the general election in the preceding year and ending on the date of the next regularly scheduled election. Thus the $2,300 figure above is in effect from November 8, 2006, to November 4, 2008. The limitations under 2 U.S.C. 441a(a)(1)(B), 441a(a)(3)(A) and (B), and 441a(h), shall be in effect beginning January 1st of the odd-numbered year and ending on December 31st of the next even-numbered year. Thus the new contribution limits under 2 U.S.C. 441a(a)(1)(B), 441a(a)(3)(A) and (B), and 441a(h) are in effect from January 1,

2007, to December 31, 2008. *See* 11 CFR 110.17(b)(1).

Dated: January 29, 2007.

Robert D. Lenhard,

Chairman, Federal Election Commission.

[FR Doc. E7–1755 Filed 2–2–07; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

DATE & TIME: Thursday, February 8, 2007 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Advisory Opinion 2006–34: Working Assets, Inc., by counsel, Joseph E. Sandler and Frederick K. Lowell.
Advisory Opinion 2006–36: Green Senatorial Campaign Committee, by Dean Myerson, Treasurer.
Advisory Opinion 2006–38: Senator Robert P. Casey, Jr. and the Casey State Committee by counsel, Marc E. Elias and Caroline P. Goodson.
Policy Statement Establishing A Pilot Program for Probable Cause Hearings.

PERSON TO CONTACT FOR INFORMATION: Mr. Robert Biersack, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 07–525 Filed 2–1–07; 3:39 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 20, 2007.

A. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Melanie Ranee Christain and Victor Lee Christain, both of Oklahoma City, Oklahoma; to acquire voting shares of First State Bancorporation of Watonga, Inc., and thereby indirectly acquire voting shares of First State Bank, both in Watonga, Oklahoma.

B. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. Bishop Limited Partnership; to acquire additional voting shares of Skagit State Bancorp, Inc., and thereby indirectly acquire voting shares of Skagit State Bank, all of Burlington, Washington.

Board of Governors of the Federal Reserve System, January 31, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–1779 Filed 2–2–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices, Acquisition of Shares of Bank or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 07-1536) published on pages 4507-4508 of the issue for Wednesday, January 31, 2007.

Under the Federal Reserve Bank of Atlanta heading, the entry for Brenda Morris Griner, is revised to read as follows:

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Brenda Morris Griner, Columbia, Mississippi; to acquire additional voting shares of First Federal Bancorp, and thereby indirectly acquire additional voting shares of First Southern Bank, both of Columbia, Mississippi.

Comments on this application must be received by February 15, 2007.

Board of Governors of the Federal Reserve System, January 31, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–1780 Filed 2–2–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 20, 2007.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. First Berne Financial Corporation, Berne, Indiana; to continue to engage *de novo* in extending credit and servicing loans, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, January 31, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.E7–1778 Filed 2–2–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day-07–05CV]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Joan Karr, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Survey of 911 Emergency Treatment for Heart Disease and Stroke—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC has a responsibility to monitor and reduce death and disability due to heart disease and stroke and needs information concerning Emergency Medical Services (EMS) practices to effectively coordinate national public health interventions. The proposed project will enhance CDC's understanding of the field practices of local emergency medical services (EMS) provider organizations and state level administration and oversight, and provide interaction with important stakeholders for partnering and cooperation. A survey will be conducted with approximately 2,250 local EMS departments focusing on standards of emergency care, treatment protocols, administrative oversight, training, certification, and service area characteristics. The survey sample includes all local EMS provider organizations in nine states (FL, MA, KS, MT, NM, PA, OR, SC, AR). The data collected will provide important insights into the ''state of the practice'' of pre-hospital emergency medical services related to cardiac and stroke care specifically. The study also will cover organizational and administrative aspects of EMS at the state and sub-state district level in the same nine states, major public and private stakeholders in the conduct of EMS, technical support issues, and practices related to positive outcomes in pre-hospital cardiac and stroke emergency care. Data analysis will include a compilation of the practices in use and comparison of organizational and administrative configurations.

There are no costs to respondents except their time to participate in the survey. The total estimated annualized burden hours are 563.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Survey of Local Level EMS agencies in nine states	2250	1	15/60	563

Dated: January 29, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–1776 Filed 2–2–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day-07–0215]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Joan Karr, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

National Death Index (NDI) 2007–2009, (OMB No. 0920–0215, Expiration 11/30/2007)—Extension—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States.

The National Death Index (NDI) is a national data base containing

identifying death record information submitted annually to NCHS by all the state vital statistics offices, beginning with deaths in 1979. Searches against the NDI file provide the states and dates of death, and the death certificate numbers of deceased study subjects.

Using the NDI Plus service, researchers have the option of also receiving cause of death information for deceased subjects, thus reducing the need to request copies of death certificates from the states. The NDI Plus option currently provides the International Classification of Diseases (ICD) codes for the underlying and multiple causes of death for the years 1979–2004. Health researchers must complete five administrative forms in order to apply for NDI services, and submit records of study subjects for computer matching against the NDI file. A three-year clearance is requested. There is no cost to respondents except for their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)	Total burden (in hrs)
Government researcher	48	1	2	96
University researcher	60	1	2	120
Private industry researcher	12	1	2	24
Total				240

Dated: January 29, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–1782 Filed 2–2–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

President's Committee for People With Intellectual Disabilities; Notice of Meeting

AGENCY: President's Committee for People With Intellectual Disabilities (PCPID), HHS.

ACTION: Notice of Quarterly Meeting.

DATES: Thursday, February 15, 2007, from 9 a.m. to 4:30 p.m., and Friday, February 16, 2007, from 8 a.m. to 1 p.m. The entire meeting of PCPID will be open to the public.

ADDRESSES: The meeting will be held in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.*, interpreting services, assistive listening devices, materials in alternative format such as large print or Braille) should notify Ericka Alston via email at *ealston@acf.hhs.gov*, or via telephone at 202–619–0634 no later than February 8, 2007. We will attempt to meet requests made after that date, but cannot guarantee availability. All meeting sites are barrier free.

Meeting Registration: The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register by contacting Ericka Alston at the email address or telephone number listed in the **ADDRESSES** section of this notice by 12 p.m. EST on February 14, 2007. For those unable to participate in person, audio of the Thursday, February 15 proceedings may be accessed via telephone by dialing 888–396–9926, passcode 54979, and requires no pre-registration.

Agenda: Day One—The subcommittees will each present a panel of experts in their respective fields of public awareness, housing and research applications. Presentations will also be given on asset development and people with intellectual disabilities and the criminal justice system.

Agenda: Day Two—The Committee will hear a briefing on Disabilityinfo.gov and then spend the remainder of the meeting in work groups for the purpose of planning the annual report to the President.

FOR FURTHER INFORMATION CONTACT: Sally D. Atwater, Executive Director, President's Committee for People with Intellectual Disabilities, Aerospace Center Office Building, Suite 701, 901 D Street, SW., Washington, DC 20447. Telephone: 202–619–0634, Fax: 202–205–9591. E-mail: *satwater@acf.hhs.gov*.

SUPPLEMENTARY INFORMATION: PCPID acts in an advisory capacity to the President and the Secretary of Health and Human Services on a broad range of topics relating to programs, services and supports for persons with intellectual disabilities. The Committee, by Executive Order, is responsible for evaluating the adequacy of current practices in programs, services and supports for persons with intellectual disabilities, and for reviewing legislative proposals that impact the quality of life experienced by citizens with intellectual disabilities and their families.

Dated: January 16, 2007.

Sally D. Atwater,

Executive Director, President's Committee for People with Intellectual Disabilities.

[FR Doc. E7–1805 Filed 2–2–07; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

Title: Excess Federal Real Property Program-Public Benefit Conveyance Application.

OMB Number: 1660–0080.

Abstract: General Services Administration (GSA) provides announcements to FEMA and to State, local and Tribal governments concerning available Federal surplus real property for emergency management response use purposes including fire and rescue services. An applicant must notify the disposal agency such as GSA Regional and Headquarters offices, the Department of Defense (DOD) Base Realignment Closure (BRAC) Offices, and FEMA Regional and Headquarters offices of its intent to acquire the property. The notification should occur within 20 days after notification of property availability. States, the District of Columbia, any territory or possession of the United States, or any political subdivision or instrumentality thereof, may apply for the transfer of conveyance of real property for emergency management response use purposes. An applicant must formally submit a completed Excess Federal Real Property Program Application for Public Benefit Conveyances including supporting documentation to FEMA. After receiving this information, FEMA will then determine if the requested excess Federal real property is required for emergency management response use. The application process designed to ensure that the applicant's proposed use of the Federal real property is for emergency management use as an integral part of applicable State, local and Tribal government plans.

Affected Public: State, local or Tribal government.

Number of Respondents:

ANNUAL BURDEN HOURS

Project/activity (survey, form(s), focus group, worksheet, etc.)	Number of respondents (A)	Frequency of responses (B)	Burden hours per respondent (C)	Annual responses (D) = (A×B)	Total annual burden hours (E) = (C×D)
Excess Federal Real Property Application	*15	1	3	15	45
Total	15	1	3	15	45

*The burden estimates in the proposed 60-day **Federal Register** notice has been changed to correct the number of respondents from 1 to 15. This change has increased the total annual burden from 3 to 45 hours. Therefore the estimated cost has been changed from $150 to $2,250.

Estimated Time per Respondent: 3.

Estimated Total Annual Burden Hours: 45.

Frequency of Response: One-time.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Nathan Lesser, Desk Officer, Department of Homeland Security/FEMA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974. Comments must be submitted on or before March 7, 2007.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Chief, Records Management, FEMA, 500 C Street, SW., Room 609, Washington, DC 20472, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov*.

Dated: January 29, 2007.

John A. Sharetts-Sullivan,

Chief, Records Management and Privacy, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–1768 Filed 2–2–07; 8:45 am]

BILLING CODE 9110–11–P

DEPARTMENT OF HOMELAND SECURITY

U.S Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request; Action 60-Day Notice of Information Collection Under Review: Form N–4, Monthly Report Naturalization Papers; OMB Control Number 1615–0051

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until April 6, 2007.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd Floor, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to (202) 272–8352 or via e-mail at *rfs.regs@dhs.gov*. When submitting comments by e-mail please make sure to add OMB Control Number 1615–0051 in the subject box.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(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 the agency's 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, 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.

Overview of This information collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Monthly Report Naturalization Papers.

(3) *Agency form number, if any, and the applicable component of the*

Department of Homeland Security sponsoring the collection: Form N–4; U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State or local Governments. Section 339 of the Immigration and Nationality Act (Act) requires that the clerk of each court that administers the oath of allegiance notify the U.S. Citizenship and Immigration Service (USCIS) of all persons to whom the oath of allegiance for naturalization is administered, within 30 days after the close of the month in which the oath was administered. This form provides a format for submitting a list of those persons to USCIS and provides accountability for the delivery of the certificates of naturalization as required under that section of law.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 160 respondents at 12 responses annually at 30 minutes (.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 960 annual burden hours.

If you have additional comments, suggestions, or need a copy of this information collection instrument, please contact Richard A. Sloan, Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., 3rd Floor, Suite 3008, Washington, DC 20529; 202–272–8377.

Dated: January 29, 2007.

Richard Sloan,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E7–1747 Filed 2–2–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form I–865, Sponsor's Notice of Change of Address; OMB Control Number 1615–0076.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until April 6, 2007.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, NW., 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*. When submitting comments by e-mail please make sure to add OMB Control Number 1615–0076 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Sponsor's Notice of Change of Address.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–865. U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. This form will be used by every sponsor who has filed an Affidavit of Support under Section 213A of the Immigration and Nationality Act to notify the USCIS of a change of address. The data will be used to locate a sponsor if there is a request for reimbursement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100,000 responses at .25 hours (15 minutes) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 25,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., 3rd Floor, Washington, DC 20529, (202) 272–8377.

Dated: January 30, 2007.

Richard A. Sloan,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. E7–1794 Filed 2–2–07; 8:45 am]

BILLING CODE 4410–10–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–591]

In the Matter of Certain Wireless Conference Calling Devices, Components Thereof, and Devices Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 29, 2006, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Callpod, Inc. of Chicago, Illinois. A supplement to the complaint was filed on January 17, 2007. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain wireless conference calling devices, components thereof, and devices containing same by reason of infringement of U.S. Patent No. 6,801,611. The complaint further alleges that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: David H. Hollander, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2746.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2006).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 30, 2007, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain wireless conference calling devices, components thereof, and devices containing the same by reason of infringement of one or more of claims 1, 3, 6, 9, 10, 12, and 15 of U.S. Patent No. 6,801,611, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Callpod, Inc., 850 W Jackson Boulevard #260, Chicago, IL 60607.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

GN Netcom, Inc., 77 Northeastern Boulevard, Nashua, NH 03062.

GN Netcom A/S, Metalbuen 66, 2750 Ballerup, Denmark.

GN Store Nord A/S, a/k/a GN Great Nordic, Ltd., Lautrupbjerg 7, P.O. Box 99, DK–2570 Ballerup, Denmark.

(c) The Commission investigative attorney, party to this investigation, is David H. Hollander, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Charles E. Bullock is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or cease and desist order or both directed against the respondent.

Issued: January 31, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–1801 Filed 2–2–07; 8:45 am]

BILLING CODE 7020–02–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 07–01]

Notice of the February 14, 2007 Millennium Challenge Corporation Board of Directors Meeting; Sunshine Act Meeting

AGENCY: Millennium Challenge Corporation.

TIME AND DATE: 2 P.M. to 4 P.M., Wednesday, February 14, 2007.

PLACE: Department of State, 2201 C Street, NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Information on the meeting may be obtained from Suzi M. Morris via e-mail at *Board@mcc.gov* or by telephone at (202) 521–3600.

STATUS: Meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The Board of Directors (the ''Board'') of the Millennium Challenge Corporation (''MCC'') will hold a meeting to discuss and consider Threshold Program assistance for two countries that are eligible for Millennium Challenge Account (''MCA'') assistance under Section 616 of the Millennium Challenge Act (the ''Act''), codified at 22 U.S.C. 7715; the reinstatement of a country that was previously suspended from Threshold Program eligibility pursuant to Section 611 of the Act, codified at 22 U.S.C. 7710, and MCC's Policy on Suspension and Termination; an MCC Operations update; compact development issues related to MCA-eligible countries; and certain administrative matters.

The agenda items are expected to involve the discussion of classified information and the meeting will be closed to the public.

Dated: February 1, 2007.

William G. Anderson, Jr.,

Vice President and General Counsel, Millennium Challenge Corporation.

[FR Doc. 07–511 Filed 2–1–07; 1:27 pm]

BILLING CODE 9211–03–P

THE NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Notice of Proposed Information Collection: Public Libraries Survey, 2008–2010

AGENCY: Institute of Museum and Library Services.

SUMMARY: The Institute of Museum and Library Service (IMLS) as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-

clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3508(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Institute of Museum and Library Services is soliciting comments concerning the continuance of the Public Libraries Survey for Fiscal Years 2008–2010.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before April 6, 2007. IMLS is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collocation of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Barbara G. Smith, E-Projects Officer, Office of Information Resources Management, Institute of Museum and Library Services, 1800 M Street NW., 9th Floor, Washington, DC 20036. Ms. Smith can be reached by *Telephone:* 202–653–4688, *Fax:* 202–653–4625, or by e-mail at *bsmith@imls.gov*.

SUPPLEMENTARY INFORMATION: The Institute of Museum and Library Services is an independent Federal grant-making agency authorized by the Museum and Library Services Act, 20 U.S.C. 9101, *et seq.* Section 210 of the Act supports IMLS' data collection and analysis role. The IMLS provides a variety of grant programs to assist the nation's museums and libraries in improving their operations and enhancing their services to the public. Museums and libraries of all sizes and types may receive support from IMLS programs.

The Public Libraries Survey, conducted by the U.S. Dept. of Education, has OMB clearance number 1850–0689; it expires 7/31/2008.

Plans are underway for transfer of the Public Libraries Survey from the Dept. of Education to the Institute of Museum and Library Services beginning with Fiscal Year 2008. The responsibility for this data collection, and for the clearance process, will be transferred entirely to IMLS.

Abstract: Mandated under PL 107–279, this survey collects annual descriptive data on the universe of public libraries in the U.S. and the Outlying Areas. Information such as public service hours per year, circulation of library books, etc., number of librarians, population of legal service area, expenditures for library collection, staff salary data, and access to technology are collected. Data are collected from each public library and are coordinated at the state level by a state data coordinator.

OMB Number: n/a.

Agency Number: 3137.

Affected Public: Federal, State and local governments, State library agencies, libraries, general public.

Number of Respondents: 55.

Frequency: Annually.

Burden hours per respondent: 56.

Total burden hours: 3080.

Contact: Barbara G. Smith, E-Projects Officer, Office of Information Resources Management, Institute of Museum and Library Services, 1800 M Street NW., 9th Floor, Washington, DC 20036. Ms. Smith can be reached by *Telephone:* 202–653–4688, *Fax:* 202–653–4625, or by e-mail at *bsmith@imls.gov*.

Barbara G. Smith,

E-Projects Officer.

[FR Doc. E7–1765 Filed 2–2–07; 8:45 am]

BILLING CODE 7036–01–P

THE NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Notice of Proposed Information Collection: State Library Agencies Survey, 2008–2010

AGENCY: Institute of Museum and Library Services.

SUMMARY: The Institute of Museum and Library Service (IMLS) as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95)[44 U.S.C. 3508(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Institute of Museum and Library Services is soliciting comments concerning the continuance of the State Library Agencies Survey from FY 2008–2010.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before April 6, 2007. IMLS is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collocation of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submissions of responses.

ADDRESSES: Send comments to Barbara G. Smith, E-Projects Officer, Office of Information Resources Management, Institute of Museum and Library Services, 1800 M Street NW., 9th Floor, Washington DC 20036. Ms. Smith can be reached by *Telephone:* 202–653–4688, *Fax:* 202–653–4625, or by e-mail at *bsmith@imls.gov*.

SUPPLEMENTARY INFORMATION: The Institute of Museum and Library Services is an independent Federal grant-making agency authorized by the Museum and Library Services Act, 20

U.S.C. 9101, *et seq.* Section 210 of the Act supports IMLS' data collection and analysis role. The IMLS provides a variety of grant programs to assist the nation's museums and libraries in improving their operations and enhancing their services to the public. Museums and libraries of all sizes and types may receive support from IMLS programs.

The State Library Agencies Survey, conducted by the U.S. Department of Education, has OMB clearance number 1850–0705; it expires 7/31/2008.

Plans are underway for the transfer of the State Library Agencies Survey from the Dept. of Education to the Institute of Museum and Library Services beginning with Fiscal Year 2008. The responsibility for this data collection, and for the clearance process, will be transferred entirely to IMLS.

Abstract: State Library Agencies are the official agencies of each state charged by state law with the extension and development of public library services throughout each state. The purpose of the State Library Agencies Survey is to provide state and federal policymakers with information about State Library Agencies, including their governance, allied operations, developmental services to libraries and library systems, support of electronic information networks and resources, number and types of outlets, and direct services to the public.

OMB Number: n/a.

Agency Number: 3137.

Affected Public: federal, state and local governments, state library agencies, libraries, general public.

Number of Respondents: 51.

Frequency: Annually.

Burden hours per respondent: 21.

Total burden hours: 1071.

Contact: Barbara G. Smith, E-Projects Officer, Office of Information Resources Management, Institute of Museum and Library Services, 1800 M Street NW., 9th Floor, Washington DC 20036. Ms. Smith can be reached by *Telephone:* 202–653–4688, *Fax:* 202–653–4625, or by e-mail at *bsmith@imls.gov.*

Barbara G. Smith,

E-Projects Officer.

[FR Doc. E7–1766 Filed 2–2–07; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference from the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506 as follows (ending time is approximate):

Arts Education (Education Leaders Institute application review): February 13, 2007. This meeting, from 3 p.m. to 4:30 p.m. eastern standard time, will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of April 8, 2005, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY-TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: January 31, 2007.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. E7–1885 Filed 2–2–07; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–305]

Dominion Energy Kewaunee, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–43 issued to Dominion Energy Kewaunee, Inc. (the licensee) for operation of the Kewaunee Power Station (KPS) located in Kewaunee County, Wisconsin.

The proposed amendment would modify KPS Technical Specification (TS) 4.6.a.5 to permit performance of the emergency diesel generator rated load test at a reduced load consistent with the short-time rating for the emergency diesel generators.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No.

The proposed changes do not affect any of the previously evaluated accidents in the Updated Safety Analysis Report (USAR). The proposed change is to make the EDG test specified by TS 4.6.a.5 (referred to as the short-time or short-term test) consistent with IEEE 387–1977, Regulatory Guide 1.9–1993, and NUREG 1431, Revision 3.1. The proposed amendment increases the total EDG test run time from 2 hours to 24 hours and decreases the maximum load value for the 2-hour portion of the test from 113.7% of continuous duty (2950 kW) to 110% of continuous duty (2860 kW). The proposed amendment also adds a specification to run the EDG loaded to a maximum of its continuous duty load (2600 kW) for the remainder of the 24 hours.

The KPS (EDGs) are designed to supply electrical power to engineered safety features (ESF) electrical busses in the event of a loss of normal power sources to these busses. The ESFs are designed to mitigate the consequences of an accident. The EDGs are not an accident initiator, and thus the proposed changes do not affect the probability of an accident previously

evaluated in the USAR. The purpose of the EDGs is to supply reliable power at rated voltage and frequency to ESF equipment that is used to mitigate the consequences of an accident. The proposed amendment modifies one of the EDG surveillances to make it consistent with IEEE 387–1977, Regulatory Guide 1.9–1993, and NUREG 1431, Rev 3.1. The change does not reduce the reliability of the EDGs because the modified testing requirements will continue to assure their necessary quality and demonstrate that the EDGs are capable of performing their intended safety function. The EDG will continue to supply reliable power to the ESF equipment as required by the USAR accident analysis. Because the EDG will continue to supply the ESF power requirements and the change does not reduce the reliability of the EDGs, there is not a significant increase in the consequences of an accident previously evaluated. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No.

The proposed amendment does not change the design function or operation of the EDGs. The proposed amendment would not change the methods of starting, loading, or monitoring the EDGs during testing in a manner that could create the possibility of a new or different kind of accident than previously evaluated. The proposed amendment would alter the run time for the EDG's when tested and the load at which the EDG's are tested. However, no new equipment is being added or changed as a result of the proposed amendment.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

No.

The proposed amendment does not change the EDG output characteristics. The EDG will remain capable of supplying the output necessary to meet post-accident loading requirements. The proposed amendment would change the length of the surveillance test and the load on the EDGs during the test. However, these changes are consistent with accepted industry standards contained in IEEE 387–1977, Regulatory Guide 1.9–1993, and NUREG 1431.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestors/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a

material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HEARINGDOCKET@NRC.GOV*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497 the attorney for the licensee.

For further details with respect to this action, see the application for amendment dated January 10, 2007, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 29th day of January 2007.

For The Nuclear Regulatory Commission.

Patrick D. Milano,

Acting Chief, Plant Licensing Branch III–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E7–1784 Filed 2–2–07; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55191; File No. SR–ISE–2007–01]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of a Proposed Rule Change Relating to Rule 2113 Long and Short Sales

January 29, 2007.

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 January 5, 2007, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend ISE Rule 2113 (Long and Short Sales) to conform its language to Rule 10a–1(a)(1)(i) promulgated under the Act. The text of the proposed rule change is available at *http://www.ISE.com*, at 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 Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose*—Currently, Rule 2113 provides that the Exchange will not execute a short sale order below the price at which the last sale was effected on the Exchange. The purpose of this filing is to amend ISE Rule 2113 (Long and Short Sales) to conform its language to Rule 10a–1(a)(1)(i) promulgated under the Act, whereby the Exchange will not execute a short sale order below the price at which the last sale was reported pursuant to an effective transaction reporting plan, as defined in Rule 242.600 under the Act.

(2) *Basis*—The basis under the Act for this proposed rule change is found in Section 6(b)(5). Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 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 No. SR–ISE–2007–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2007–01. 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. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2007–01 and should be submitted on or before February 26, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–1763 Filed 2–2–07; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55189; File No. SR–NYSE–2006–67]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of a Proposed Rule Change and Amendments No. 1 and 2 Thereto To List and Trade Exchange-Traded Notes of Barclays Bank PLC Linked to the Performance of the British Pound/U.S. Dollar Exchange Rate

January 29, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 24, 2006 the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the Exchange. On December 15, 2006, the Exchange submitted Amendment No. 1.[3] On January 23, 2007, the Exchange submitted Amendment No. 2.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade exchange-traded notes (''Notes'') of Barclays Bank PLC (''Barclays'') linked to the performance of the British pound/U.S. dollar exchange rate (the ''GBP/USD exchange rate'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE 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 Notes

Under Section 703.19 of the Listed Company Manual (the ''Manual''), the Exchange may approve for listing and trading securities not otherwise covered by the criteria of Sections 1 and 7 of the Manual, provided the issue is suited for auction market trading. The Exchange proposes to list and trade, under Section 703.19 of the Manual, the Notes, which are linked to the performance of the GBP/USD exchange rate. Barclays intends to issue the Notes under the name ''iPath^{SM} Exchange Traded Notes.''

The Exchange believes that the Notes will conform to the initial listing standards for equity securities under Section 703.19, as Barclays is an affiliate of Barclays PLC, which is a listed company in good standing, the Notes will have a minimum life of one year, the minimum public market value of the Notes at the time of issuance will

[3] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the Exchange's original submission in its entirety.

[4] Amendment No. 2 replaced and superseded Amendment No. 1 in its entirety.

exceed $4 million, there will be at least one million Notes outstanding, and there will be at least 400 holders at the time of issuance. The Notes are a series of medium-term debt securities of Barclays that provide for a cash payment at maturity or upon earlier redemption at the holder's option, based on the performance of the GBP/USD exchange rate subject to the adjustments described below. The original issue price of each Note will be $25. The Notes will trade on the Exchange's equity trading floor, and the Exchange's existing equity trading rules will apply to trading in the Notes.

The GBP/USD exchange rate is a foreign exchange spot rate that measures the relative values of two currencies, the British pound and the U.S. dollar. When the British pound appreciates relative to the U.S. dollar, the GBP/USD exchange rate (and the value of the Notes) increases; when the British pound depreciates relative to the U.S. dollar, the GBP/USD exchange rate (and the value of the Notes) decreases. The GBP/USD exchange rate is expressed as a rate that reflects the number of U.S. dollars that can be exchanged for one British pound in the interbank market for settlement in two days, as reported each day shortly after 10 a.m. Eastern Time (''ET'') on Reuters page 1FED or any successor page.

The Notes will not have a minimum principal amount that will be repaid and, accordingly, payment on the Notes prior to or at maturity may be less than the original issue price of the Notes. In fact, the GBP/USD exchange rate must increase for the investor to receive at least the $25 original issue price per Note at maturity or upon redemption. If the GBP/USD exchange rate decreases or does not increase sufficiently to offset any negative effect of the adjustment factor (described below), the investor will receive less, and possibly significantly less, than the $25 original issue price per Note. In addition, holders of the Notes will not receive any interest payments from the Notes. The Notes will have a term of 30 years. The Notes are not callable.

If the Notes are held to maturity, the holder will receive a cash payment at maturity that is linked to the percentage change in the GBP/USD exchange rate between the inception date and the final valuation date. The cash payment at maturity will be equal to (1) the reference currency amount times (2) the GBP/USD exchange rate on the final valuation date times (3) the adjustment factor as determined on the final valuation date. The reference currency amount is the original issue price of the Notes divided by the GBP/USD exchange rate on the inception date.

The adjustment factor will be calculated on a daily basis in the following manner: The adjustment factor on the inception date will equal one. On each subsequent business day until the final valuation date, the adjustment factor will equal (1) the adjustment factor on the immediately preceding business day times (2) the sum of one plus (a) the Sterling Overnight Index Average, as reported on Reuters page SONIA or any successor page on the immediately preceding business day (the ''SONIA'') minus (b) 0.27% minus (c) the investor fee times (3) the relevant daycount fraction. The SONIA is the weighted average rate to four decimal places of all unsecured sterling overnight cash transactions brokered in London by the Wholesale Markets Brokers' Association (WMBA) member firms between midnight and 4:15 p.m. (London time) with all counterparties in a minimum deal size of £25 million. The investor fee is equal to 0.40% of the reference currency amount per year and is the only fee payable by investors in connection with an investment in the Notes. The daycount fraction on any business day will be the number of calendar days that have elapsed since the immediately preceding business day divided by 365. If the maturity date is not a business day, the maturity date will be the next following business day. If the fifth business day before this day does not qualify as a valuation date (as described below), then the maturity date will be the fifth business day following the final valuation date. In such event penalty interest will not accrue or be payable with respect to that deferred payment.

Prior to maturity, holders may, subject to certain restrictions, choose to redeem their Notes on any redemption date during the term of the Notes provided that they present at least 100,000 Notes for redemption. Holders may also act through a broker or other financial intermediary (such as a bank or other financial institution not required to register as a broker-dealer to engage in securities transactions) that is willing to bundle their Notes for redemption with other investors' securities. Barclays may from time to time in its sole discretion reduce, in part or in whole, the minimum redemption amount of 100,000 Notes. Any such reduction will be applied on a consistent basis for all holders of the Notes at the time the reduction become effective. If holders redeem their Notes on a particular redemption date, they will receive a cash payment on such date in an amount equal to the weekly redemption value, which equals (1) the reference currency amount times (2) the GBP/USD exchange rate on the applicable valuation date times (3) the adjustment factor as determined on the applicable valuation date. Holders must redeem at least 100,000 Notes at one time in order to exercise their right to redeem their Notes on any redemption date. Barclays may from time to time in its sole discretion reduce, in part or in whole, the minimum redemption amount of 100,000 Notes. Any such reduction will be applied on a consistent basis for all holders of Notes at the time the reduction becomes effective. A valuation date is each Thursday from the first Thursday after issuance of the Notes until the last Thursday before maturity of the Notes (the ''final valuation date'') inclusive or, if such date is not a trading day, the next succeeding trading day, not to exceed five business days. A redemption date is the second business day following a valuation date (other than the final valuation date). The final redemption date will be the second business day following the valuation date immediately prior to the final valuation date.

To redeem their Notes, Holders must instruct their broker or other person with whom they hold their Notes to take the following steps:

- Deliver a notice of redemption to Barclays via e-mail by no later than 11 a.m. ET on the business day prior to the applicable valuation date. If Barclays receives notice by the time specified in the preceding sentence, it will respond by sending a form of confirmation of redemption;
- Deliver the signed confirmation of redemption to Barclays via facsimile in the specified form by 4 p.m. ET on the same day. Barclays or its affiliate must acknowledge receipt in order for confirmation to be effective;
- Instruct their DTC custodian to book a delivery vs. payment trade with respect to their Notes on the valuation date at a price equal to the applicable Weekly Redemption Value, facing Barclays Capital DTC 5101; and
- Cause their DTC custodian to deliver the trade as booked for settlement via DTC at or prior to 10 a.m. ET on the applicable redemption date (the third business day following the valuation date).

If holders elect to redeem their Notes, Barclays may request that Barclays Capital Inc. (a broker-dealer) purchase the Notes for the cash amount that would otherwise have been payable by Barclays upon redemption. In this case, Barclays will remain obligated to redeem the Notes if Barclays Capital Inc.

fails to purchase the Notes. Any Notes purchased by Barclays Capital Inc. may remain outstanding.

If an event of default occurs and the maturity of the Notes is accelerated, Barclays will pay the default amount in respect of the principal of the Notes at maturity. The default amount for the Notes on any day will be an amount, determined by the calculation agent in its sole discretion, equal to the cost of having a qualified financial institution, of the kind and selected as described below, expressly assume all Barclays' payment and other obligations with respect to the Notes as of that day and as if no default or acceleration had occurred, or to undertake other obligations providing substantially equivalent economic value to the holders of the Notes with respect to the Notes. That cost will equal:

• The lowest amount that a qualified financial institution would charge to effect this assumption or undertaking, plus

• The reasonable expenses, including reasonable attorneys' fees, incurred by the holders of the Notes in preparing any documentation necessary for this assumption or undertaking.

During the default quotation period for the Notes (described below), the holders of the Notes and/or Barclays may request a qualified financial institution to provide a quotation of the amount it would charge to effect this assumption or undertaking. If either party obtains a quotation, it must notify the other party in writing of the quotation. The amount referred to in the first bullet point above will equal the lowest—or, if there is only one, the only—quotation obtained, and as to which notice is so given, during the default quotation period. With respect to any quotation, however, the party not obtaining the quotation may object, on reasonable and significant grounds, to the assumption or undertaking by the qualified financial institution providing the quotation and notify the other party in writing of those grounds within two business days after the last day of the default quotation period, in which case that quotation will be disregarded in determining the default amount. The default quotation period is the period beginning on the day the default amount first becomes due and ending on the third business day after that day, unless:

• No quotation of the kind referred to above is obtained, or

• Every quotation of that kind obtained is objected to within five business days after the due date as described above.

If either of these two events occurs, the default quotation period will continue until the third business day after the first business day on which prompt notice of a quotation is given as described above. If that quotation is objected to as described above within five business days after that first business day, however, the default quotation period will continue as described in the prior sentence and this sentence.

In any event, if the default quotation period and the subsequent two business day objection period have not ended before the final valuation date, then the default amount will equal the stated principal amount of the Notes.

Indicative Value

An intraday ''Indicative Value'' meant to approximate the intrinsic economic value of the Notes will be calculated and published via the facilities of the Consolidated Tape Association (''CTA'') every 15 seconds throughout the NYSE trading day on each day on which the Notes are traded on the Exchange.

Additionally, Barclays or an affiliate will calculate and publish the closing Indicative Value of the Notes on each trading day at *www.ipathetn.com.* The last sale price of the Notes will also be disseminated over the consolidated tape, subject to a 20 minute delay. In connection with the Notes, the term ''Indicative Value'' refers to the value at a given time determined based on the following equation:

Indicative Value = Reference Currency Amount × Current GBP/USD Exchange Rate × Current Adjustment Factor

Where:

Current GBP/USD Exchange Rate = The exchange rate as reported on that day.

The Current GBP/USD Exchange Rate used for the calculation of the Indicative Value will be the GBP/USD exchange rate disseminated by Bloomberg L.P. during the course of the trading day on a 15 second delayed basis.

Continued Listing Criteria

The Exchange prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A–3 under the Act.

The Exchange will delist the Notes:

• If, following the initial twelve month period from the date of commencement of trading of the Notes: (i) The Notes have more than 60 days remaining until maturity and there are fewer than 50 beneficial holders of the Notes for 30 or more consecutive trading days; (ii) if fewer than 100,000 Notes remain issued and outstanding; or (iii) if the market value of all outstanding Notes is less than $1,000,000.

• If, during the time the Notes trade on the Exchange, the Indicative Value ceases to be available on a 15 second delayed basis.

• If, during the time the Notes trade on the Exchange, the GBP/USD exchange rate ceases to be calculated or available on at least a 15 second delayed basis from one or more major market data vendors.

• If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Trading Halts

If the Exchange Rate or the Indicative Value is not being disseminated as required, the Exchange may halt trading during the day on which the interruption to the dissemination of the Exchange Rate or the Indicative Value first occurs. If the interruption to the dissemination of the Exchange Rate or the Indicative Value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Rules Applicable to Specialists in Currency-Related Securities

The Exchange has filed proposed Supplementary Material .10 to Rules 1300A and 1301A, which will apply the provisions of Rule 1300A(b) and Rule 1301A to certain securities listed on the Exchange pursuant to Section 703.19 (''Other Securities'') of the Exchange's Listed Company Manual.[5] Specifically, Rules 1300A(b) and 1301A will apply to securities listed under Section 703.19 where the price of such securities is based in whole or part on the price of (a) a non-U.S. currency or currencies, (b) any futures contracts or other derivatives based on a non-U.S. currency or currencies, or (c) any index based on either (a) or (b) above. As a result of application of Rule 1300A(b), the specialist in the Notes, the specialist's member organization and other specified persons will be prohibited under paragraph (m) of Exchange Rule 105 Guidelines from acting as market maker or functioning in any capacity involving market-making responsibilities in the British pound, options, futures or options on futures on the British pound, or any other derivatives based on the British pound (collectively, ''derivative instruments''). If the member organization acting as specialist in the Notes is entitled to an exemption under NYSE Rule 98 from

[5] *See* SR–NYSE–2006–68.

paragraph (m) of NYSE Rule 105 Guidelines, then that member organization could act in a market making capacity in the British pound or derivative instruments based on the British pound, other than as a specialist in the Notes themselves, in another market center.

Under Rule 1301A(a), the member organization acting as specialist in the Notes (1) will be obligated to conduct all trading in the Notes in its specialist account, (subject only to the ability to have one or more investment accounts, all of which must be reported to the Exchange), (2) will be required to file with the Exchange and keep current a list identifying all accounts for trading in the British pound or derivative instruments based on the British pound, which the member organization acting as specialist may have or over which it may exercise investment discretion, and (3) will be prohibited from trading in the British pound or derivative instruments based on the British pound, in an account in which a member organization acting as specialist, controls trading activities which have not been reported to the Exchange as required by Rule 1301.

Under Rule 1301A(b), the member organization acting as specialist in the Notes will be required to make available to the Exchange such books, records or other information pertaining to transactions by the member organization and other specified persons for its or their own accounts in the British pound or derivative instruments based on the British pound, as may be requested by the Exchange. This requirement is in addition to existing obligations under Exchange rules regarding the production of books and records.

Under Rule 1301A(c), in connection with trading the British pound or derivative instruments based on the British pound, the specialist could not use any material nonpublic information received from any person associated with a member or employee of such person regarding trading by such person or employee in the British pound or derivative instruments based on the British pound.

Surveillance

The Exchange's surveillance procedures will incorporate and rely upon existing Exchange surveillance procedures governing equities with respect to surveillance of the Notes. The Exchange believes that these procedures are adequate to monitor Exchange trading of the Notes and to detect violations of Exchange rules, thereby deterring manipulation. In this regard, the Exchange currently has the authority under NYSE Rule 476 to request the Exchange specialist in the Notes to provide NYSE Regulation with information that the specialist uses in connection with pricing the Notes on the Exchange, including specialist, proprietary or other information regarding securities, currencies, futures, options on futures or other derivative instruments. The Exchange believes it also has authority to request any other information from its members—including floor brokers, specialists and ''upstairs'' firms—to fulfill its regulatory obligations.

The Exchange's current trading surveillances focus on detecting securities trading outside normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange is able to obtain information regarding trading in the Notes, British pound options and British pound futures through NYSE members, in connection with such members' proprietary or customer trades which they effect on any relevant market. In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG. Specifically, the NYSE can obtain such information from the Philadelphia Stock Exchange (the ''Phlx'') in connection with British pound options trading on the Phlx and from the Chicago Mercantile Exchange (the ''CME'') in connection with British pound futures trading on the CME.[6] These markets are the primary trading markets in the world for exchange-traded futures, options and options on futures on the exchange rate between the dollar and the British pound. The Exchange also lists and trades CurrencyShares based on the British pound and can therefore surveil the trading of those CurrencyShares on the Exchange and on NYSE Arca.

Trading Rules

The Exchange's existing trading rules will apply to trading of the Notes. The Notes will trade between the hours of 9:30 a.m. and 4 p.m. ET and will be subject to the equity margin rules of the Exchange.

Suitability

Pursuant to Exchange Rule 405, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes. With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes: (1) To determine that such transaction is suitable for the customer, and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, such transaction.

Information Memorandum

The Exchange will, prior to trading the Notes, distribute an information memorandum to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Notes. The information memorandum will note to members language in the prospectus used by Barclays in connection with the sale of the Notes regarding prospectus delivery requirements for the Notes. In the initial distribution of the Notes, and during any subsequent distribution of the Notes, NYSE member organizations will deliver a prospectus to investors purchasing from such distributors.

The information memorandum will discuss the special characteristics and risks of trading this type of security. Specifically, the information memorandum, among other things, will discuss what the Notes are, how the Notes are redeemed, applicable Exchange rules, dissemination of information regarding the Indicative Value, the GBP/USD exchange rate, trading information and applicable suitability rules.

The information memorandum will also notify members and member organizations about the procedures for redemptions of Notes and that Notes are not individually redeemable but are redeemable only in aggregations of at least 100,000 Notes. The information memorandum will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act. The information memorandum will also reference that there is no regulated source of last sale information regarding currency exchange rates and that the Commission has no jurisdiction over the trading of currencies on which the value of the Notes is based.

[6] The Phlx is a full member and the CME is an affiliate member of the ISG.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NYSE 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.

NYSE has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof. The Commission has determined that a 15-day comment period is appropriate in this case.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2006–67.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2006–67. 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. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2006–67 and should be submitted on or before February 20, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Nancy M. Morris,

Secretary.

[FR Doc. E7–1777 Filed 2–2–07; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55188; File No. SR–NYSE–2006–66]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of a Proposed Rule Change and Amendments No. 1 and 2 Thereto To List and Trade Exchange-Traded Notes of Barclays Bank PLC Linked to the Performance of the Euro/U.S. Dollar Exchange Rate

January 29, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 24, 2006 the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On December 26, 2006, the Exchange submitted Amendment No. 1.[3] On January 23, 2007, the Exchange submitted Amendment No. 2.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade exchange-traded notes (''Notes'') of Barclays Bank PLC (''Barclays'') linked to the performance of the euro/U.S. dollar exchange rate (the ''EUR/USD exchange rate'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the Exchange's original submission in its entirety.

[4] Amendment No. 2 replaced and superseded Amendment No. 1 in its entirety.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Notes

Under Section 703.19 of the Listed Company Manual (the ''Manual''), the Exchange may approve for listing and trading securities not otherwise covered by the criteria of Sections 1 and 7 of the Manual, provided the issue is suited for auction market trading. The Exchange proposes to list and trade, under Section 703.19 of the Manual, the Notes, which are linked to the performance of the EUR/USD exchange rate. Barclays intends to issue the Notes under the name ''iPathSM Exchange Traded Notes.''

The Exchange believes that the Notes will conform to the initial listing standards for equity securities under Section 703.19, as Barclays is an affiliate of Barclays PLC, which is a listed company in good standing. The Notes will have a minimum life of one year, the minimum public market value of the Notes at the time of issuance will exceed $4 million, there will be at least one million Notes outstanding, and there will be at least 400 holders at the time of issuance. The Notes are a series of medium-term debt securities of Barclays that provide for a cash payment at maturity or upon earlier redemption at the holder's option, based on the performance of the EUR/USD exchange rate subject to the adjustments described below. The original issue price of each Note will be $25. The Notes will trade on the Exchange's equity trading floor, and the Exchange's existing equity trading rules will apply to trading in the Notes.

The EUR/USD exchange rate is a foreign exchange spot rate that measures the relative values of two currencies, the euro and the U.S. dollar. When the euro appreciates relative to the U.S. dollar, the EUR/USD exchange rate (and the value of the Notes) increases; when the euro depreciates relative to the U.S. dollar, the EUR/USD exchange rate (and the value of the Notes) decreases. The EUR/USD exchange rate is expressed as a rate that reflects the number of U.S. dollars that can be exchanged for one euro in the interbank market for settlement in two days, as reported each day shortly after 10 a.m. Eastern Time (''ET'') on Reuters page 1FED or any successor page.

The Notes will not have a minimum principal amount that will be repaid and, accordingly, payment on the Notes prior to or at maturity may be less than the original issue price of the Notes. In fact, the EUR/USD exchange rate must increase for the investor to receive at least the $25 original issue price per Note at maturity or upon redemption. If the EUR/USD exchange rate decreases or does not increase sufficiently to offset any negative effect of the adjustment factor (described below), the investor will receive less, and possibly significantly less, than the $25 original issue price per Note. In addition, holders of the Notes will not receive any interest payments from the Notes. The Notes will have a term of 30 years. The Notes are not callable.

If the Notes are held to maturity, the holder will receive a cash payment at maturity that is linked to the percentage change in the EUR/USD exchange rate between the inception date and the final valuation date. The cash payment at maturity will be equal to (1) the reference currency amount times (2) the EUR/USD exchange rate on the final valuation date times (3) the adjustment factor as determined on the final valuation date. The reference currency amount is the original issue price of the Notes divided by the EUR/USD exchange rate on the inception date.

The adjustment factor will be calculated on a daily basis in the following manner: The adjustment factor on the inception date will equal one. On each subsequent business day until the final valuation date, the adjustment factor will equal (1) the adjustment factor on the immediately preceding business day times (2) the sum of one plus (a) the European Overnight Index Average, as reported on Reuters page EONIA or any successor page on the immediately preceding business day (the ''EONIA'') minus (b) 0.27% minus (c) the investor fee times (3) the relevant daycount fraction. The EONIA is the effective overnight reference rate for the euro. It is computed as a weighted average of all overnight unsecured lending transactions undertaken in the interbank market, initiated within the euro area by the contributing banks. The investor fee is equal to 0.40% of the reference currency amount per year and is the only fee payable by investors in connection with an investment in the Notes. The daycount fraction on any business day will be the number of calendar days that have elapsed since the immediately preceding business day divided by 365. If the maturity date is not a business day, the maturity date will be the next following business day. If the fifth business day before this day does not qualify as a valuation date (as described below), then the maturity date will be the fifth business day following the final valuation date. In such event penalty interest will not accrue or be payable with respect to that deferred payment.

Prior to maturity, holders may, subject to certain restrictions, choose to redeem their Notes on any redemption date during the term of the Notes provided that they present at least 100,000 Notes for redemption. Holders may also act through a broker or other financial intermediary (such as a bank or other financial institution not required to register as a broker-dealer to engage in securities transactions) that is willing to bundle their Notes for redemption with other investors' securities. Barclays may from time to time in its sole discretion reduce, in part or in whole, the minimum redemption amount of 100,000 Notes. Any such reduction will be applied on a consistent basis for all holders of the Notes at the time the reduction becomes effective. If holders redeem their Notes on a particular redemption date, they will receive a cash payment on such date in an amount equal to the weekly redemption value, which equals (1) the reference currency amount times (2) the EUR/USD exchange rate on the applicable valuation date times (3) the adjustment factor as determined on the applicable valuation date. Holders must redeem at least 100,000 Notes at one time in order to exercise their right to redeem their Notes on any redemption date. Barclays may from time to time in its sole discretion reduce, in part or in whole, the minimum redemption amount of 100,000 Notes. Any such reduction will be applied on a consistent basis for all holders of Notes at the time the reduction becomes effective. A valuation date is each Thursday from the first Thursday after issuance of the Notes until the last Thursday before maturity of the Notes (the ''final valuation date'') inclusive or, if such date is not a trading day, the next succeeding trading day, not to exceed five business days. A redemption date is the second business day following a valuation date (other than the final valuation date). The final redemption date will be the second business day following the valuation date immediately prior to the final valuation date.

To redeem their Notes, Holders must instruct their broker or other person with whom they hold their Notes to take the following steps:

- Deliver a notice of redemption to Barclays via email by no later than 11 a.m. ET on the business day prior to the applicable valuation date. If Barclays receives notice by the time specified in the preceding sentence, it will respond

by sending a form of confirmation of redemption;

• Deliver the signed confirmation of redemption to Barclays via facsimile in the specified form by 4 p.m. ET on the same day. Barclays or its affiliate must acknowledge receipt in order for confirmation to be effective;

• Instruct their DTC custodian to book a delivery vs. payment trade with respect to their Notes on the valuation date at a price equal to the applicable Weekly Redemption Value, facing Barclays Capital DTC 5101; and

• Cause their DTC custodian to deliver the trade as booked for settlement via DTC at or prior to 10 a.m. ET on the applicable redemption date (the third business day following the valuation date).

If holders elect to redeem their Notes, Barclays may request that Barclays Capital Inc. (a broker-dealer) purchase the Notes for the cash amount that would otherwise have been payable by Barclays upon redemption. In this case, Barclays will remain obligated to redeem the Notes if Barclays Capital Inc. fails to purchase the Notes. Any Notes purchased by Barclays Capital Inc. may remain outstanding.

If an event of default occurs and the maturity of the Notes is accelerated, Barclays will pay the default amount in respect of the principal of the Notes at maturity. The default amount for the Notes on any day will be an amount, determined by the calculation agent in its sole discretion, equal to the cost of having a qualified financial institution, of the kind and selected as described below, expressly assume all Barclays' payment and other obligations with respect to the Notes as of that day and as if no default or acceleration had occurred, or to undertake other obligations providing substantially equivalent economic value to the holders of the Notes with respect to the Notes. That cost will equal:

• The lowest amount that a qualified financial institution would charge to effect this assumption or undertaking, plus

• The reasonable expenses, including reasonable attorneys' fees, incurred by the holders of the Notes in preparing any documentation necessary for this assumption or undertaking.

During the default quotation period for the Notes (described below), the holders of the Notes and/or Barclays may request a qualified financial institution to provide a quotation of the amount it would charge to effect this assumption or undertaking. If either party obtains a quotation, it must notify the other party in writing of the quotation. The amount referred to in the first bullet point above will equal the lowest—or, if there is only one, the only—quotation obtained, and as to which notice is so given, during the default quotation period. With respect to any quotation, however, the party not obtaining the quotation may object, on reasonable and significant grounds, to the assumption or undertaking by the qualified financial institution providing the quotation and notify the other party in writing of those grounds within two business days after the last day of the default quotation period, in which case that quotation will be disregarded in determining the default amount. The default quotation period is the period beginning on the day the default amount first becomes due and ending on the third business day after that day, unless:

• No quotation of the kind referred to above is obtained, or

• Every quotation of that kind obtained is objected to within five business days after the due date as described above.

If either of these two events occurs, the default quotation period will continue until the third business day after the first business day on which prompt notice of a quotation is given as described above. If that quotation is objected to as described above within five business days after that first business day, however, the default quotation period will continue as described in the prior sentence and this sentence.

In any event, if the default quotation period and the subsequent two business day objection period have not ended before the final valuation date, then the default amount will equal the stated principal amount of the Notes.

Indicative Value

An intraday ''Indicative Value'' meant to approximate the intrinsic economic value of the Notes will be calculated and published via the facilities of the Consolidated Tape Association (''CTA'') every 15 seconds throughout the NYSE trading day on each day on which the Notes are traded on the Exchange.

Additionally, Barclays or an affiliate will calculate and publish the closing Indicative Value of the Notes on each trading day at www.ipathetn.com. The last sale price of the Notes will also be disseminated over the consolidated tape, subject to a 20 minute delay. In connection with the Notes, the term ''Indicative Value'' refers to the value at a given time determined based on the following equation:

Indicative Value = Reference Currency Amount x Current EUR/USD Exchange Rate x Current Adjustment Factor

Where:

Current EUR/USD Exchange Rate = The exchange rate as reported on that day.

The Current EUR/USD Exchange Rate used for the calculation of the Indicative Value will be the EUR/USD exchange rate disseminated by Bloomberg L.P. during the course of the trading day on a 15 second delayed basis.

Continued Listing Criteria

The Exchange prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A–3 under the Act.

The Exchange will delist the Notes:

• If, following the initial twelve month period from the date of commencement of trading of the Notes, (i) the Notes have more than 60 days remaining until maturity and there are fewer than 50 beneficial holders of the Notes for 30 or more consecutive trading days; (ii) if fewer than 100,000 Notes remain issued and outstanding; or (iii) if the market value of all outstanding Notes is less than $1,000,000.

• If, during the time the Notes trade on the Exchange, the Indicative Value ceases to be available on a 15 second delayed basis.

• If, during the time the Notes trade on the Exchange, the EUR/USD exchange rate ceases to be calculated or available on at least a 15 second delayed basis from one or more major market data vendors.

• If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Trading Halts

If the Exchange Rate or the Indicative Value is not being disseminated as required, the Exchange may halt trading during the day on which the interruption to the dissemination of the Exchange Rate or the Indicative Value first occurs. If the interruption to the dissemination of the Exchange Rate or the Indicative Value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Rules Applicable to Specialists in Currency-Related Securities

The Exchange has filed proposed Supplementary Material .10 to Rules 1300A and 1301A, which will apply the provisions of Rule 1300A(b) and Rule 1301A to certain securities listed on the Exchange pursuant to Section 703.19 (''Other Securities'') of the Exchange's

Listed Company Manual.[5] Specifically, Rules 1300A(b) and 1301A will apply to securities listed under Section 703.19 where the price of such securities is based in whole or part on the price of (a) a non-U.S. currency or currencies, (b) any futures contracts or other derivatives based on a non-U.S. currency or currencies, or (c) any index based on either (a) or (b) above. As a result of application of Rule 1300A(b), the specialist in the Notes, the specialist's member organization and other specified persons will be prohibited under paragraph (m) of Exchange Rule 105 Guidelines from acting as market maker or functioning in any capacity involving market-making responsibilities in the euro, options, futures or options on futures on the euro, or any other derivatives based on the euro (collectively, ''derivative instruments''). If the member organization acting as specialist in the Notes is entitled to an exemption under NYSE Rule 98 from paragraph (m) of NYSE Rule 105 Guidelines, then that member organization could act in a market making capacity in the euro or derivative instruments based on the euro, other than as a specialist in the Notes themselves, in another market center.

Under Rule 1301A(a), the member organization acting as specialist in the Notes (1) will be obligated to conduct all trading in the Notes in its specialist account, (subject only to the ability to have one or more investment accounts, all of which must be reported to the Exchange), (2) will be required to file with the Exchange and keep current a list identifying all accounts for trading in the euro or derivative instruments based on the euro, which the member organization acting as specialist may have or over which it may exercise investment discretion, and (3) will be prohibited from trading in the euro or derivative instruments based on the euro, in an account in which a member organization acting as specialist, controls trading activities which have not been reported to the Exchange as required by Rule 1301.

Under Rule 1301A(b), the member organization acting as specialist in the Notes will be required to make available to the Exchange such books, records or other information pertaining to transactions by the member organization and other specified persons for its or their own accounts in the euro or derivative instruments based on the euro, as may be requested by the Exchange. This requirement is in addition to existing obligations under Exchange rules regarding the production of books and records.

Under Rule 1301A(c), in connection with trading the euro or derivative instruments based on the euro, the specialist could not use any material nonpublic information received from any person associated with a member or employee of such person regarding trading by such person or employee in the euro or derivative instruments based on the euro.

Surveillance

The Exchange's surveillance procedures will incorporate and rely upon existing Exchange surveillance procedures governing equities with respect to surveillance of the Notes. The Exchange believes that these procedures are adequate to monitor Exchange trading of the Notes and to detect violations of Exchange rules, thereby deterring manipulation. In this regard, the Exchange currently has the authority under NYSE Rule 476 to request the Exchange specialist in the Notes to provide NYSE Regulation with information that the specialist uses in connection with pricing the Notes on the Exchange, including specialist, proprietary or other information regarding securities, currencies, futures, options on futures or other derivative instruments. The Exchange believes it also has authority to request any other information from its members—including floor brokers, specialists and ''upstairs'' firms—to fulfill its regulatory obligations.

The Exchange's current trading surveillances focus on detecting securities trading outside normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange is able to obtain information regarding trading in the Notes, euro options and euro futures through NYSE members, in connection with such members' proprietary or customer trades which they effect on any relevant market. In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG. Specifically, the NYSE can obtain such information from the Philadelphia Stock Exchange (the ''Phlx'') in connection with euro options trading on the Phlx and from the Chicago Mercantile Exchange (the ''CME'') and the Euronext.Liffe Exchange (the ''LIFFE'') in connection with euro futures trading on the CME and the LIFFE respectively.[6] These markets are the primary trading markets in the world for exchange-traded futures, options and options on futures on the exchange rate between the dollar and the euro. The Exchange also lists and trades CurrencyShares based on the euro and can therefore surveil the trading of those CurrencyShares on the Exchange and on NYSE Arca.

Trading Rules

The Exchange's existing trading rules will apply to trading of the Notes. The Notes will trade between the hours of 9:30 a.m. and 4 p.m. ET and will be subject to the equity margin rules of the Exchange.

Suitability

Pursuant to Exchange Rule 405, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes. With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes: (1) To determine that such transaction is suitable for the customer, and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, such transaction.

Information Memorandum

The Exchange will, prior to trading the Notes, distribute an information memorandum to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Notes. The information memorandum will note to members language in the prospectus used by Barclays in connection with the sale of the Notes regarding prospectus delivery requirements for the Notes. In the initial distribution of the Notes, and during any subsequent distribution of the Notes, NYSE member organizations will deliver a prospectus to investors purchasing from such distributors.

The information memorandum will discuss the special characteristics and risks of trading this type of security. Specifically, the information memorandum, among other things, will discuss what the Notes are, how the Notes are redeemed, applicable Exchange rules, dissemination of information regarding the Indicative

[5] *See* SR–NYSE–2006–68.

[6] The Phlx is a full member and the CME and the LIFFE are affiliate members of the ISG.

Value, the EUR/USD exchange rate, trading information and applicable suitability rules.

The information memorandum will also notify members and member organizations about the procedures for redemptions of Notes and that Notes are not individually redeemable but are redeemable only in aggregations of at least 100,000 Notes. The information memorandum will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act. The information memorandum will also reference that there is no regulated source of last sale information regarding currency exchange rates and that the Commission has no jurisdiction over the trading of currencies on which the value of the Notes is based.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NYSE 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.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

NYSE has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof. The Commission has determined that a 15-day comment period is appropriate in this case.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2006–66.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2006–66. 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. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2006–66 and should be submitted on or before February 20, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Nancy M. Morris,

Secretary.

[FR Doc. E7–1781 Filed 2–2–07; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval of a new information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 28, 2006, vol. 71, no. 228, page 68881. The New England Region Aviation Expo database performs conference registration and helps plan the logistics and non-pilot for the expo.

DATES: Please submit comments by March 7, 2007.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration

Title: New England Region Aviation Expo Database.

Type of Request: Approval for a new collection.

OMB Control Number: 212–XXXX.

Forms(s): There are no FAA forms associated with this collection.

Affected Public: An estimated 500 Respondents.

Frequency: This information is collected once annually.

Estimated Average Burden Per Response: Approximately 15 seconds per response.

Estimated Annual Burden Hours: An estimated 2 hours annually.

Abstract: The New England Region Aviation Expo database performs conference registration and helps plan the logistics and non-pilot courses for the expo.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed

to Nathan Lesser, Desk Officer, Department of Transportation/FA, and sent via electronic mail to *oir_submission@omb.eop.gov* or faxed to (202) 395–6974.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 29, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, Strategy and Investment Analysis Division, AIO–20.

[FR Doc. 07–464 Filed 2–2–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comment about our intention to request the Office of Management and Budget's (OMB) extension without change of a current information collection. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 14, 2006, vol. 71, no. 178, pages 54329–54330. This information is needed to obtain accurate billing information for FAA air traffic and related services for certain aircraft that transit U.S. controlled airspace but neither take off from, nor land in, the United States.

DATES: Please submit comments by March 7, 2007.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Overflight Billing and Collection Customer Information Form.

Type of Request: Revision of a current approved collection.

OMB Control Number: 2120–0618.

Form(s): There are no FAA forms associated with this collection.

Affected Public: An estimated 600 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden Per Response: Approximately 5 minutes per response.

Estimated Annual Burden Hours: An estimated 50 hours annually.

Abstract: This information is needed to obtain accurate billing information for FAA air traffic and related services for certain aircraft that transit U.S. controlled airspace but neither take off from, nor land in, the United States. The respondents are air carriers who meet the criteria of transiting U.S. controlled airspace.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oiro_submission@omb.eop.gov* or faxed to (202) 395–6974.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 29, 2007.

Carla Mauney,

FAA Information Collection Clearance Officer, Strategy and Investment Analysis Division, AIO–20.

[FR Doc. 07–466 Filed 2–2–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice: RNP SAAAR Approval Consultant Opportunities

ACTION: Notice and request for applications.

SUMMARY: The Federal Aviation Administration (FAA) announced today that it is seeking to identify qualified industry consultants to assist 14 Code of Federal Regulations (CFR) Part 91, 121, 125, 129, 135 applicants as they pursue approval to conduct ''Required Navigation Performance Special Aircraft and Aircrew Authorization Required'' (RNP SAAAR) approaches. Provisions for gaining those approvals are contained within FAA Advisory Circular 90–101, ''Approval Guidance for RNP Procedures with SAAAR.'' Applicants who meet certain qualifications will be permitted to enter into an agreement with the FAA to be listed as RNP SAAAR Approval Consultants.

DATES: Formal letter of application must be received on or before March 2, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Vincent Chirasello, Federal Aviation Administration, AFS–400 Flight Technologies and Procedures Division, 470 L'Enfant Plaza, Suite 4102, Washington, DC 20024, (202) 385–4586.

SUPPLEMENTARY INFORMATION: RNP SAAAR procedures provide an opportunity to improve safety, efficiency and capacity. Safety is improved when RNP approaches replace visual or non-precision approaches, and efficiency is improved through more repeatable and optimum flight paths. Capacity can be improved by de-conflicting traffic during instrument conditions. RNP SAAAR procedures provide an unprecedented flexibility in construction of approach procedures. RNP SAAAR procedures build upon the performance based National Airspace System (NAS) concept. The performance requiremetns to conduct an approach are defined, and aircraft are qualified against these performance requirements. RNP approaches include unique, characteristics that require special aircraft and aircrew capabilities and authorization similar to Category (CAT) II/III ILS operations. The AC 90–101 RNP SAAAR approval process is complex and the success of the process depends on the quality of the application. Although the FAA is committed to providing approval services, a reduced budget and increase in attrition leaves fewer resources available to assist new entrants in the approval process. In an effort to address this new RNP SAAAR entrant need, the FAA will develop and maintain a list of qualified AC 90–101 RNP SAAAR Approval Consultants to assist in the approval process. This process will benefit the general public by helping expedite new entrant applications.

(a) *Eligibility Requirements:* To be identified as an FAA-qualified RNP

SAAAR Approval Consultant, the following qualifications must be met:

(1) Have understanding of AC 90–101, as revised, to include the individual appendices. This includes a thorough understanding of the approval process.

(2) At least 2 years experience working with RNP SAAAR or equivalent procedures.

(3) Upon selection for the program, successfully complete an RNP SAAAR Approval Process Seminar.

(4) Have operations and airworthiness personnel qualified through training, experience, and expertise in 14 CFR part 91, 121, 125, 129 and/or 135 oeprations, or equivalent experience.

(b) *Required Documentation:* An applicant to become an RNP SAAAR Approval Consultant must submit a formal letter of request in addition to the following documents:

(1) Statement substantiating that the RNP SAAAR Approval Consultant applicant meets eligibility requirements as stated in item (a) above.

(2) Supplemental statement including the names, signatures, and titles of those persons who will perform the authorized functions, and substantiating that they meet the eligibility requirements.

(3) RNP SAAAR Approval Consultant Operations Manual.

(4) References.

(5) Certification that, to the best of its knowledge and belief, the persons serving as management of the organization have not been convicted of, or had a civil or administrative finding rendered against, them for: commission of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(c) *How to Apply:* An RNP SAAAR Consultant applicant must submit all required documents for consideration before being identified as an FAA-qualified RNP SAAAR Approval Consultant to: Mr. Vincent Chirasello, Federal Aviation Administration, AFS–400 Flight Technologies and Procedures Division, 470 L'Enfant Plaza, Suite 4102, Washington, DC 20024.

(d) *Application Process:* Upon receipt of the application, AFS–400, will:

(1) Ensure the RNP SAAAR Approval Consultant application package contains all the required documents as listed in item (b) above.

(2) Evaluate documents for accuracy.

(3) Ensure the RNP SAAAR consultant application package contains all the eligibility requirements as listed in item (a) above.

(4) Contact the applicant's personal references.

(5) Conduct a personal interview with the applicant; including those persons within organizations, if any, who will perform authorized functions.

(6) See the following web site for additional information, *http://www.faa.gov/about/office_org/headquarters_offices/avs/offices/afs/afs400/afs410/rnp/.*

Authority: The FAA is authorized to enter into this Agreement by 49 U.S.C. 106 (1), (6) and (m).

Issued in Washington, DC, January 29, 2007.

John M. Allen,

Deputy Director, Flight Standards Service, AFS–2.

[FR Doc. 07–467 Filed 2–2–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 720–CS

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 720–CS, Carrier Summary Report.

DATES: Written comments should be received on or before April 6, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Carrier Summary Report.

OMB Number: 1545–1733.

Form Number: 720–CS.

Abstract: Representatives of the motor fuel industry, state governments, and the Federal government are working to ensure compliance with excise taxes on motor fuels. This joint effort has resulted in a system to track the movement of all products to and from terminals. Form 720–CS is an information return that will be used by carriers to report their monthly deliveries and receipts of products to and from terminals.

Current Actions: There is a net increase of 7 line items to the form and schedules.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 39,900.

Estimated Time per Respondent: 5 hours, 15 minutes.

Estimated Total Annual Burden Hours: 209,418.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 26, 2007.

Larnice Mack,

IRS Reports Clearance Officer.

[FR Doc. E7–1815 Filed 2–2–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of American Eagle Gold Proof and Silver Proof and Uncirculated Coin Price Increase

Summary: The United States Mint is establishing prices for its 2007 American Eagle Gold and Silver Coins.

Pursuant to the authority that 31 U.S.C. 5111(a)(3) and 5112(e), (f), & (i) grant the Secretary of the Treasury to mint and issue gold and silver coins, and to prepare and distribute numismatic items, the United States Mint mints and issues American Eagle Gold Proof Coins in four denominations with the following weights: one-ounce, one-half ounce, one-quarter ounce, and one-tenth ounce. The United States Mint also produces a four-coin set that contains one coin of each denomination. In addition, the United States Mint produces American Eagle Silver Proof and Uncirculated coins with one ounce of silver in each coin. In accordance with 31 U.S.C. 9701(b)(2)(B), the United States Mint is changing the price of these coins to reflect the increase in value of the underlying precious metal content of the coins—the result of increases in the market price of gold and silver.

Accordingly, effective February 1, 2007, the United States Mint will commence selling the following 2007 American Eagle gold and silver coins according to the following price schedule:

Description	Price
Gold Coins:	
One-ounce gold proof coin	$789.95
One-half ounce gold proof coin	399.95
One-quarter ounce gold proof coin	209.95
One-tenth ounce gold proof coin	104.95
Four-coin gold proof set	1,449.95
Silver Coins:	
One-ounce silver proof coin	29.95
One-ounce silver uncirculated coin	21.95

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: January 30, 2007.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. E7–1757 Filed 2–2–07; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Disability Benefits Commission; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Veterans' Disability Benefits Commission has scheduled a meeting for February 21–22, 2007, at the Hotel Washington, 15th Street and Pennsylvania Avenue, NW., Washington, DC. The meeting will begin at 8:30 a.m. each day. The February 21 session will end at 5:15 p.m. and the February 22 session will end at 4:30 p.m. The meeting is open to the public.

The purpose of the Commission is to carry out a study of the benefits under the laws of the United States that are provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service.

The agenda for the meeting will feature updates on the progress of the studies being conducted by the Center for Naval Analyses (CNA) and the Institute of Medicine (IOM), to include CNA's preliminary analysis of earnings. The Commission will receive presentations on the draft site visit summary report and several draft Issue Papers in various stages of development. The Commission will also receive comments from interested parties on two topics related to specific Research Questions approved by the Commission on October 14, 2005. The two topics will be: Survivors' Concurrent Receipt (Research Question 21 addressing the SBP/DIC Offset); and Time Limit to File (Research Question 18).

Interested persons may attend and present oral statements to the Commission on February 22. Oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may also provide written comments for review by the Commission prior to the meeting or at any time, by e-mail to *veterans@vetscommission.com* or by mail to Mr. Ray Wilburn, Executive Director, Veterans' Disability Benefits Commission, 1101 Pennsylvania Avenue, NW., 5th Floor, Washington, DC 20004.

Dated: January 30, 2007.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 07–491 Filed 2–2–07; 8:45 am]

BILLING CODE 8320–07–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on Women Veterans will meet February 27–March 1, 2007, from 8:30 a.m. to 4 p.m. each day. The meeting will be held in the Board of Veterans Appeals Conference Room, (room 819), Lafayette Building, 811 Vermont Avenue, NW., Washington. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by VA designed to meet such needs. The Committee will make recommendations to the Secretary regarding such programs and activities.

On February 27, the agenda will include briefings on initiatives of the Veterans Health Administration, the Veterans Benefits Administration, VA's Homeless Program and Incarcerated Veterans Re-entry Initiative; an update on activities of the Center for Women

Veterans; and an overview of the Department's initiatives, budget, and current legislation affecting women veterans. On February 28, the Committee will visit Capitol Hill, receive briefing on the VHA Women Veterans Health Program, and discuss any new issues the Committee members introduce. On March 1, the Committee will receive updates and briefings on the status of VA's Fee Service Program, domestic violence, the new Psychosocial Rehabilitation and Recovery Services Program, and the Center for Minority Veterans. The Committee will discuss site selection criteria and any new issues that members introduce.

Any member of the public wishing to attend should contact Ms. Chanel Bankston-Carter, at the Department of Veterans Affairs, Center for Women Veterans (00W), 810 Vermont Avenue, NW., Washington, DC 20420. Ms. Bankston-Carter may be contacted either by phone at (202) 273–6193, fax at (202) 273–7092, or e-mail at *00W@mail.va.gov*. Interested persons may attend, appear before, or file statements with the Committee. Written statements must be filed before the meeting, or within 10 days after the meeting.

Dated: January 30, 2007.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 07–492 Filed 2–2–07; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Monday,
February 5, 2007

Part II

Department of Labor

Delegation of Authority and Assignment of Responsibility to the Chief Acquisition Officer and Assistant Secretary for Administration and Management, and Related Matters; Notice

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 2–2007]

Delegation of Authority and Assignment of Responsibility to the Chief Acquisition Officer and Assistant Secretary for Administration and Management, and Related Matters

1. *Purpose and Scope.* The purpose of this Secretary's Order is to delegate authorities and assign responsibilities for implementation of the Services Acquisition Reform Act (SARA) of 2003 and related laws, and to formally establish within the Department of Labor (the Department or DOL) the position of Chief Acquisition Officer (CAO).

2. *Authority.* This Order is issued under the authority of 5 U.S.C. 301 (Departmental Regulations); 29 U.S.C. 551 (Establishment of Department; Secretary; Seal); Reorganization Plan No. 6 of 1950 (5 U.S.C. Appendix 1); Public Law 101–576, the Chief Financial Officers Act of 1990; Title VII of Division B of Public Law 98–369, the Competition in Contracting Act of 1984; Public Law 108–199, Division F, Title VI, Section 647(b) of the Consolidated Appropriations Act, 2004; the Economy Act (31 U.S.C. 1535); Public Law 105–270, the Federal Activities Inventory Reform Act of 1998; Public Law 103–355, the Federal Acquisition Streamlining Act of 1994; the Federal Grant and Cooperative Agreements Act (31 U.S.C. 6301–6308); Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251–266a); Public Law 103–62, the Government Performance and Results Act of 1993; Public Law 93–400, the Office of Federal Procurement Policy Act; Title 40 of the United States Code (Public Buildings, Property and Works); Sections 503(a), 504, and 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793(a), 794, 794d); Public Law 108–136, Division A, Title XIV, the Services Acquisition Reform Act; Public Law 85–536, the Small Business Act; Executive Order 12615, Performance of Commercial Activities by Private Sector (November 19, 1987); Executive Order 12549, Debarment and Suspension (February 18, 1986); Executive Order 12689, Debarment and Suspension (August 16, 1989); Executive Order 13198, Agency Responsibilities with Respect to Faith-Based and Community Initiatives (January 29, 2001); and Federal Acquisition Regulations System, 48 CFR Chapter 1, parts 1–99.

3. *Background.* Section 1421 of SARA (41 U.S.C. 414) amends the Office of Federal Procurement Policy Act to create the position of CAO and assigns principal responsibility for agency acquisition policy and activities to the CAO. Under SARA, agency heads also are required to designate a Senior Procurement Executive responsible for management direction of the procurement system of the agency. The Senior Procurement Executive must either be the CAO or report directly to the CAO. SARA also creates a CAO Council, the principal interagency forum for monitoring and improving the Federal acquisition system. Under Office of Management and Budget (OMB) Memorandum M–04–13, the CAO Council replaces the Federal Acquisition Council.

In 1976, by Secretary's Order 4–76, the Secretary assigned responsibility for DOL's acquisition and assistance activities to the Assistant Secretary for Administration and Management (ASAM). In 1972, the Department established an advisory board, the Procurement Review Board, which currently makes recommendations regarding certain acquisition and assistance issues to the ASAM. This Secretary's Order formally creates the position of CAO within the Department, reassigns responsibility for DOL's acquisition and assistance activities to the CAO, repeals and supersedes Secretary's Order 4–76, and updates the roles and responsibilities of DOL agency heads to reflect current law.

4. *The Chief Acquisition Officer.* The position of Chief Acquisition Officer is established by this Order. The CAO will have acquisition management as his or her primary duty. The CAO will report to the Secretary, but may receive day-to-day guidance and direction from the Deputy Secretary. In addition to the acquisition management responsibilities established by SARA, the CAO also will have responsibility for overseeing other Department activities as set forth below, including the solicitation, award and administration of Departmental assistance instruments (grants, cooperative agreements, and other assistance instruments).

5. *Assignment of Responsibilities to the CAO.*

A. The CAO will have the following duties, which are assigned to the CAO by Section 1421 of SARA (amending Section 16 of the Office of Federal Procurement Policy Act, 41 U.S.C. 414):

(1) Advising and assisting the Secretary on the appropriate business strategy to achieve DOL's mission.

(2) Advising and assisting the Secretary and other DOL officials in ensuring that acquisition activities contribute to achieving DOL's mission.

(3) Monitoring and evaluating the performance of DOL acquisition programs based on applicable performance measurements.

(4) Establishing policies, procedures, and practices that increase the use of full and open competition in the acquisition of goods and services by the executive agency.

(5) Increasing appropriate use of performance-based contracting and performance specifications in DOL acquisition activities.

(6) Making DOL acquisition decisions, consistent with all applicable law, regulations, and policies.

(7) Establishing clear lines of authority, accountability, and responsibility for DOL acquisition decisions.

(8) Managing the direction of DOL acquisition policy, including implementation of DOL's acquisition regulations, policies, and standards.

(9) Developing and maintaining a DOL acquisition career management program to ensure that DOL has an adequate professional acquisition workforce.

(10) As part of DOL's strategic planning and performance evaluation process:

(a) Reviewing current requirements for DOL personnel regarding knowledge and skill in acquisition resources management and determining whether such requirements adequately facilitate the achievement of the performance goals established for DOL acquisition management.

(b) If necessary, developing strategies and specific plans for hiring, training, and professional development for DOL acquisition personnel.

(c) Reporting to the Secretary on the progress made in improving DOL acquisition management capability.

(11) Serving on the Chief Acquisition Officers Council.

B. The CAO will perform any additional duties that are assigned to the CAO by applicable law or regulation.

6. *Delegation of Authorities and Assignment of Additional Responsibilities to the CAO.* Except as otherwise provided by law, regulation, or this or another Secretary's Order, the CAO is delegated the following authority and assigned the following responsibilities:

A. Authorities and responsibilities of the Department or Secretary under the following laws (including any amendments) and any related regulations, executive orders, or OMB circulars or memoranda:

(1) Title VII of Division B of Public Law 98–369, the Competition in Contracting Act of 1984.

(2) Public Law 108–199, Division F, Title VI, Section 647(b), the Consolidated Appropriations Act, 2004 (which requires an annual report on competitive sourcing).

(3) The Economy Act (31 U.S.C. 1535).

(4) In coordination with the ASAM, Sections 2(d) and (e) of Public Law 105–270, the Federal Activities Inventory Reform Act of 1998.

(5) Public Law 103–355, the Federal Acquisition Streamlining Act of 1994.

(6) The Federal Grant and Cooperative Agreements Act (31 U.S.C. 6301–6308).

(7) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251–266a)

(8) Public Law 93–400, the Office of Federal Procurement Policy Act, including

(a) Designating a Senior Procurement Executive, who will report directly to the CAO without intervening authority and who will be responsible for:

(1) Managing the direction of the DOL procurement system, including implementation of DOL procurement policies, regulations, and standards.

(2) Carrying out all powers, functions, and duties of the Secretary with respect to implementation of Section 37 of the Office of Federal Procurement Policy Act, including the establishment of policies and procedures for the effective management (including accession, education, training, career development, and performance incentives) of the acquisition workforce of the agency.

(b) Designating for the Department and for each procuring activity of the Department one officer or employee (other than the Senior Procurement Executive) to serve as a Competition Advocate, who will be responsible for promoting full and open competition, promoting the acquisition of commercial items, and challenging barriers to such acquisition, as well as performing any other responsibilities assigned to the Competition Advocate by law, regulation, or policy.

(c) In consultation with the Office of Federal Procurement Policy and the DOL Chief Information Officer (CIO), establishing, maintaining, and using, to the maximum extent practicable and cost-effective, procedures and processes that employ electronic commerce in the conduct and administration of the Department's procurement system.

(9) Title 40 of the United States Code, Subtitle I, Chapter 11, Selection of Architects and Engineers.

(10) Public Law 108–136, Division A, Title XIV, the Services Acquisition Reform Act.

(11) Executive Orders 12549 and 12689 on Debarment and Suspension.

(12) Executive Order 12615, Performance of Commercial Activities by Private Sector.

B. Prescribing regulations, policies and procedures regarding the solicitation and award of, and overseeing the administration of, all Departmental acquisitions and assistance instruments (*e.g.*, procurement contracts, cooperative agreements, grants, inter- or intra-agency acquisition instruments, and similar documents) that obligate Federal funds for the purpose of obtaining goods and services for the Department or promoting Departmental programs and objectives through financial assistance. Funds paid out of the appropriation, ''State Unemployment Insurance and Employment Service Operations'' are excluded from this authority.

C. In coordination with the ASAM, CIO, and Assistant Secretary for, ODEP, establishing and ensuring implementation of policies, procedures and practices to ensure that all DOL acquisitions and assistance instruments comply with Sections 503(a), 504 and 508 of the Rehabilitation Act of 1973 (29 U.S.C. 793(a), 794, 794(d).

D. Performing any acquisition or procurement responsibilities assigned to the ASAM under Secretary's Order 5–94, ''Procurement and Use of Environmentally Preferable Products and Services.''

E. Assisting the CIO on the acquisition of information technology.

F. Coordinating with the ASAM to ensure that the Department's acquisition management processes are integrated into its strategic and operational planning processes.

G. Assisting the Director of the Office of Small Business Programs (OSBP) on procurement actions related to OSBP's responsibilities under Secretary's Order 4–2002 and on the Department's Annual Acquisition Plan and Procurement Forecast.

H. Assisting the Director of the Center for Faith-Based and Community Initiatives (CFBCI) on acquisition or assistance actions related to CFBCI's responsibilities under Executive Order 13198 or similar authority.

I. Coordinating with the Chief Financial Officer (CFO):

(1) To ensure that the Department's internal management controls relating to the CAO's responsibilities are consistent with all laws, regulations, OMB guidance, and policies governing DOL management control processes, including Secretary's Order 14–2006, Internal Control Program (dated June 20, 2006).

(2) To ensure that the CFO is informed on a timely basis of all management control issues arising within the scope of the CAO's functions.

(3) On the acquisition of financial management systems and asset management systems throughout the Department.

J. Establishing and overseeing an advisory board (the current Procurement Review Board or equivalent), which will address significant acquisition and assistance issues, as determined by the CAO.

K. Maintaining and publishing, in a prominent manner, a list of DOL contracting and grant officers which also identifies the limits on these officers' authority.

M. Performing any other related duties that are assigned by the Secretary.

7. *Responsibilities of the Director of the Office of Small Business Programs.* The OSBP Director is responsible for coordinating, as necessary, with the CAO on procurement actions related to OSBP's responsibilities under Secretary's Order 4–2002 and on the Department's Annual Acquisition Plan and Procurement Forecast.

8. *Responsibilities of the Director of the Center for Faith-Based and Community Initiatives.* The CFBCI Director is responsible for coordinating, as necessary, with the CAO on acquisition or assistance actions related to CFBCI's responsibilities under Executive Order 13198 or similar authority.

9. *Responsibilities of the Assistant Secretary for the Office of Disability Employment Policy.* The Assistant Secretary for ODEP is responsible for coordinating with the CAO, ASAM, and CIO to establish policies, procedures and practices ensuring that all DOL acquisitions and assistance instruments comply with Sections 503(a), 504 and 508 of the Rehabilitation Act of 1973.

10. *Responsibilities of the Solicitor of Labor.* The Solicitor of Labor is delegated authority and assigned responsibility for providing legal advice and assistance to all officers of the Department relating to the administration and implementation of this Order. The bringing of legal proceedings, the representation of the Secretary and other officials of the Department, and the determination of whether such proceedings or representations are appropriate in a given case, are delegated exclusively to the Solicitor.

11. *Responsibilities of the Chief Information Officer.* The CIO is responsible for:

A. Consulting with the CAO on the establishment, maintenance, and use (to the maximum extent that is practicable

and cost-effective) of procedures and processes employing electronic commerce in the conduct and administration of the Department's procurement system.

B. Coordinating with the CAO on the acquisition of information technology.

C. Coordinating with the CAO, ASAM, and Assistant Secretary for ODEP to establish policies, procedures and practices ensuring that all DOL acquisitions of information technology are consistent with Sections 503(a), 504 and 508 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794, 794d).

12. *Responsibilities of the Assistant Secretary for Administration and Management.* The ASAM is responsible for:

A. Overseeing the Department's compliance with the Government Performance and Results Act, including coordinating with the CAO to ensure that the Department's acquisition management processes are integrated into its strategic and operational planning processes.

B. Exercising the Secretary's authority under Section 1413 of SARA (41 U.S.C. 433 note) to determine that certain acquisition positions are shortage category positions in order to use the authorities in 5 U.S.C. 3304, 5333 and 5753 to recruit and appoint highly qualified persons directly to such positions in the Department.

C. Coordinating with the CAO and other agency heads, as appropriate, to fulfill the Department's responsibilities under the Federal Activities Inventory Reform Act of 1998.

D. Coordinating with the CAO, CIO and Assistant Secretary for ODEP to establish policies, procedures and practices ensuring that all DOL acquisitions and assistance comply with Sections 503(a), 504 and 508 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794, 794d).

13. *Responsibilities of the Chief Financial Officer.* The CFO is responsible for coordinating with the CAO:

A. To ensure that the Department's internal management controls relating to the CAO's responsibilities are consistent with all laws, regulations, OMB guidance, and policies governing DOL management control processes, including Secretary's Order 14–2006, Internal Control Program (dated June 20, 2006).

B. To ensure that the CFO is informed on a timely basis of all management control issues arising within the scope of the CAO's functions.

C. On the acquisition of financial management systems and asset management systems throughout the Department.

14. *Responsibilities of Agency Heads.* Consistent with their statutory responsibilities and other applicable Secretary's Orders and guidelines, all DOL Agency Heads are assigned responsibility for ensuring compliance by their organizations with the laws identified in Paragraph 6.A. above, as well as related regulations, and DOL and OMB guidance and policies.

15. *Directives Affected:*

A. This Order repeals and supersedes Secretary's Order 4–76, which assigned procurement and contracting officer authority to the ASAM. All Secretary's Orders and other DOL documents (including policies and guidance) which reference Secretary's Order 4–76 are amended to refer to this Order instead. Delegations or transfers of authority made by the ASAM under Secretary's Order 4–76 will continue in effect unless modified or terminated by the CAO.

B. This Order does not affect the authorities or responsibilities of the Assistant Secretary for Public Affairs under Secretary's Order 6–83, relating to the review of audio-visual work done under contract, to assure compliance with appropriate contract terms and achievement of minimum acceptable quality.

C. This Order does not affect the authorities or responsibilities of the Office of Inspector General (OIG) under the Inspector General Act of 1978, as amended, or under Secretary's Order 4–2006.

D. This Order does not affect the authorities or responsibilities of the Chief Financial Officer under the CFO Act, Secretary's Order 14–2006, Secretary's Order 1–92, or Secretary's Order 1–97.

E. This Order amends Secretary's Order 5–94 to shift acquisition and procurement responsibilities relating to environmentally preferable products and services from the ASAM to the CAO.

F. This Order does not affect Secretary's Order 4–2000, which delegates authorities and assigns responsibilities for the DOL External Programs and Conducted Programs.

G. This Order does not affect Secretary's Order 1–2001, which delegates authorities and assigns responsibilities to the Assistant Secretary for the Office of Disability Employment Policy.

H. This Order does not affect Secretary's Order 4–2001, which delegates authorities and assigns responsibilities to the Assistant Secretary for Employment Standards and Other Officials in the Employment Standards Administration.

I. This Order amends Secretary's Order 4–2002 (which assigns responsibilities and delegates duties related to small businesses) to shift certain procurement responsibilities from the ASAM to the CAO, but does not otherwise affect the responsibilities delegated in that Order.

J. This Order does not affect Secretary's Order 5–2002 which, inter alia, provides grantmaking authority to the Commissioner of Labor Statistics under the Occupational Safety and Health Act.

K. This Order amends Secretary's Order 3–2003 (which assigns responsibilities and delegates duties to the CIO) to shift certain procurement responsibilities from the ASAM to the CAO, but does not otherwise affect the responsibilities delegated in that Order.

L. This Order does not affect Secretary's Order 1–2004 which delegates authorities and assigns responsibilities for DOL's Internal Equal Employment Opportunity Programs.

M. This Order does not affect the authority delegated by the Secretary to the Employment and Training Administration under section 173 of the Workforce Investment Act to administer dislocated worker programs, including national emergency grants.

16. *Reservation of Authority.* The following functions are reserved to the Secretary:

A. No delegation of authority or assignment of responsibility under this Order will be deemed to affect the Secretary's authority to continue to exercise or further delegate such authority or responsibility.

B. The submission of reports and recommendations to the President and Congress concerning the administration of the statutory provisions and executive orders listed above is reserved to the Secretary.

17. *Redelegations and Transfers of Authority.* Unless provided otherwise in this or another Secretary's Order, the authority delegated in this Order may be redelegated or transferred, as permitted by law or regulation.

18. *Effective Date.* This Order is effective immediately.

Dated: January 30, 2007.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. E7–1812 Filed 2–2–07; 8:45 am]

BILLING CODE 4510–23–P

Federal Register

Monday,
February 5, 2007

Part III

The President

Proclamation 8104—American Heart Month, 2007

Federal Register
Vol. 72, No. 23
Monday, February 5, 2007

Presidential Documents

Title 3—

The President

Proclamation 8104 of February 1, 2007

American Heart Month, 2007

By the President of the United States of America

A Proclamation

Heart disease is the leading cause of death in the United States, claiming hundreds of thousands of lives each year. During American Heart Month, we renew our commitment to fighting cardiovascular disease by increasing public awareness of this deadly disease and understanding of how it can be prevented.

Today, millions of Americans live with some form of cardiovascular disease, including congenital heart disease, coronary heart disease, and high blood pressure. Individuals can reduce their chance of developing these and other types of heart disease by exercising regularly, maintaining healthy eating habits and weight, avoiding tobacco use, and monitoring cholesterol and blood pressure levels. All Americans should speak with their doctors about the dangers of this disease and get regular preventive screenings.

My Administration continues to help raise awareness of heart disease through initiatives such as ''The Heart Truth'' campaign, sponsored by the National Heart, Lung, and Blood Institute. First Lady Laura Bush serves as the National Ambassador of ''The Heart Truth'' campaign and works with partner organizations as part of her Women's Health and Wellness Initiative. The campaign informs women about the dangers of this deadly illness and encourages them to make cardiovascular health a priority. This year marks the fifth anniversary of the campaign, which uses the red dress as a symbol to remind women to protect their heart health and inspire them to take action. New data shows that fewer women are dying from heart disease, and more women are aware heart disease is the number one killer.

During American Heart Month, we honor the medical professionals, researchers, and all those whose tireless efforts are making a positive difference in the lives of those battling heart disease. By working together, we can continue to help the American people live longer and healthier lives.

In acknowledgement of the importance of the ongoing fight against cardiovascular disease, the Congress, by Joint Resolution approved December 30, 1963, as amended (77 Stat. 843; 36 U.S.C. 101), has requested that the President issue an annual proclamation designating February as ''American Heart Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim February 2007 as American Heart Month, and I invite all Americans to participate in National Wear Red Day on February 2, 2007. I also invite the Governors of the States, the Commonwealth of Puerto Rico, officials of other areas subject to the jurisdiction of the United States, and the American people to join me in recognizing and reaffirming our commitment to fighting cardiovascular disease.

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

[FR Doc. 07–527
Filed 2–2–07; 8:47 am]
Billing code 3195–01–P

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Federal Register

Vol. 72, No. 23

Monday, February 5, 2007

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FEDERAL REGISTER PAGES AND DATE, FEBRUARY

4615–4942 1
4943–5148 2
5149–5326 5

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR
Ch. XXV 4943

3 CFR
Proclamations:
8104 5323
Administrative Orders:
Memorandums:
Memorandum of January 25, 2007 5149

5 CFR
890 5151

7 CFR
301 4945
3550 5153

8 CFR
Proposed Rules:
103 4888

10 CFR
72 4615
73 4945
Proposed Rules:
72 4660
170 5108
171 5108

12 CFR
Proposed Rules:
354 5217

14 CFR
23 4618
39 ..... 4625, 4633, 4635, 4948, 5157, 5160, 5164
97 ..... 4950, 4952
Proposed Rules:
23 4661
39 ..... 4663, 4964

15 CFR
801 ..... 5167, 5169

18 CFR
35 5171
366 5171
375 5171

21 CFR
558 4954
864 4637

26 CFR
1 ..... 4955, 5174
602 5174

26 CFR
Proposed Rules:
1 5228

31 CFR
500 4960

33 CFR
117 4961
165 4639
Proposed Rules:
100 4669

39 CFR
Proposed Rules:
3001 5230

40 CFR
52 4641
60 4641
180 4963
261 4645
Proposed Rules:
52 ..... 4671, 4674, 5232
60 4674
80 4966

42 CFR
Proposed Rules:
412 4776
413 4776

44 CFR
67 5197
Proposed Rules:
67 ..... 5239, 5247

45 CFR
620 4943
689 4943

48 CFR
511 4649
516 4649
532 4649
538 4649
546 4649
552 4649
Proposed Rules:
2 4675
4 4675
5 4675
13 4675

49 CFR
192 4655
195 4655
Proposed Rules:
1243 4676

50 CFR
229 ..... 4657, 5214
Proposed Rules:
17 4967
680 5255

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT FEBRUARY 5, 2007

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Caribbean, Gulf, and South Atlantic fisheries—

Gulf of Mexico and South Atlantic coastal migratory pelagic resources; published 2-6-07

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Industrial, commercial, and institutional boilers and process heaters; published 12-6-06

Air pollution control:

State operating permits programs—

Delaware; published 12-6-06

Air quality implementation plans; approval and promulgation; various States:

Delaware; published 12-7-06

Missouri; published 12-5-06

South Carolina; published 12-7-06

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Food packaging treated with pesticides; published 12-6-06

Water supply:

National primary drinking water regulations—

Unregulated Contaminant Monitoring Regulation for Public Water Systems; revision; published 1-4-07

Unregulated Contaminant Monitoring Regulation for Public Water Systems; revision; correction; published 1-30-07

FEDERAL COMMUNICATIONS COMMISSION

Radio services, special:

Aviation services—

Aviation communications; frequency allocation and radio treaty matters; amendments; published 12-6-06

Radio stations; table of assignments:

Oklahoma; published 1-10-07

HOMELAND SECURITY DEPARTMENT

Coast Guard

Anchorage regulations:

Maine; published 1-5-07

Texas; published 1-5-07

Drawbridge operations:

Florida; published 1-5-07

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Foreign corporations; U.S. transfers of stock or securities; published 2-5-07

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cherries (tart) grown in Michigan et al.; comments due by 2-15-07; published 1-16-07 [FR E7-00423]

Cranberries grown in Massachusetts, et al.; comments due by 2-15-07; published 1-16-07 [FR E7-00428]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Horse quarantine facilities, permanent, privately owned; standards; comments due by 2-12-07; published 12-13-06 [FR E6-21032]

Interstate transportation of animals and animal products (quarantine):

Brucellosis in cattle; research facilities; comments due by 2-12-07; published 12-13-06 [FR E6-21172]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Atlantic highly migratory species—

Atlantic commercial shark; comments due by 2-12-07; published 12-14-06 [FR 06-09667]

CONSUMER PRODUCT SAFETY COMMISSION

Consumer Product Safety Act:

Portable generators—

Mandatory performance standards; comments due by 2-12-07; published 12-12-06 [FR E6-21131]

DEFENSE DEPARTMENT

Defense Acquisition Regulations System

Acquisition regulations:

Labor reimbursement on DoD non-commercial time-and-materials and labor-hour contracts; comments due by 2-12-07; published 12-12-06 [FR 06-09602]

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Performance-based payments; comments due by 2-12-07; published 12-14-06 [FR 06-09678]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Consumer products; energy conservation program:

Energy conservation standards—

Battery chargers and external power supplies; document availability and public meeting; comments due by 2-16-07; published 12-29-06 [FR E6-22437]

Residential water heaters, direct heating equipment, and pool heaters; comment period extension; comments due by 2-13-07; published 1-30-07 [FR E7-01502]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution; standards of performance for new stationary sources:

Solid waste incineration units; Federal plan requirements; comments due by 2-16-07; published 12-18-06 [FR E6-21285]

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Ohio; comments due by 2-16-07; published 1-17-07 [FR E7-00520]

Air quality implementation plans; approval and promulgation; various States:

Kentucky; comments due by 2-16-07; published 1-17-07 [FR E7-00531]

Nevada; comments due by 2-16-07; published 12-18-06 [FR E6-21500]

West Virginia; comments due by 2-12-07; published 1-12-07 [FR E7-00249]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Clothianidin; comments due by 2-12-07; published 12-13-06 [FR E6-20898]

Nomenclature changes; technical amendment; comments due by 2-12-07; published 12-13-06 [FR E6-21025]

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Connecticut; comments due by 2-12-07; published 1-10-07 [FR E7-00185]

Oklahoma and Texas; comments due by 2-12-07; published 1-10-07 [FR E7-00181]

FEDERAL DEPOSIT INSURANCE CORPORATION

Depository Institution Management Interlocks Act; implementation; comments due by 2-12-07; published 1-11-07 [FR 07-00079]

FEDERAL RESERVE SYSTEM

Depository Institution Management Interlocks Act; implementation; comments due by 2-12-07; published 1-11-07 [FR 07-00079]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Performance-based payments; comments due by 2-12-07; published 12-14-06 [FR 06-09678]

HOMELAND SECURITY DEPARTMENT

Acquisition regulations:

Revisions; comments due by 2-12-07; published 1-11-07 [FR 07-00061]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Critical habitat designations—

Monterey spineflower; comments due by 2-12-

07; published 12-14-06 [FR 06-09656]
Findings on petitions, etc.—
Uinta Basin hookless cactus and Pariette cactus; comments due by 2-12-07; published 12-14-06 [FR E6-21259]
Migratory bird hunting:
Alaska; 2007 subsistence harvest regulations; comments due by 2-12-07; published 12-13-06 [FR 06-09492]

LABOR DEPARTMENT
Employment Standards Administration
Family Medical Leave Act; information request; comments due by 2-16-07; published 1-26-07 [FR 07-00353]

LABOR DEPARTMENT
Employment and Training Administration
Aliens; temporary employment in U.S.:
E-3 visa category; labor-condition application requirements; filing procedures; comments due by 2-12-07; published 1-12-07 [FR 07-00044]

LABOR DEPARTMENT
Wage and Hour Division
Family Medical Leave Act; information request; comments due by 2-16-07; published 1-26-07 [FR 07-00353]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Performance-based payments; comments due by 2-12-07; published 12-14-06 [FR 06-09678]

SECURITIES AND EXCHANGE COMMISSION
Securities:
Foreign private issuer's termination of registration; comments due by 2-12-07; published 1-11-07 [FR E6-22405]
Securities futures; short selling in connection with public offering; comments due by 2-12-07; published 12-13-06 [FR E6-21141]
Short sale price test; amendments; comments due by 2-12-07; published 12-13-06 [FR E6-21156]

TRANSPORTATION DEPARTMENT
Workplace drug and alcohol testing programs:
Procedures; revision; comments due by 2-12-07; published 1-11-07 [FR E7-00242]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Air carrier certification and operations:
Digital flight data recorders; filtered flight data; comments due by 2-13-07; published 11-15-06 [FR E6-19205]
Airworthiness directives:
Airbus; comments due by 2-12-07; published 1-12-07 [FR E7-00315]
McDonnell Douglas; comments due by 2-12-07; published 12-12-06 [FR E6-20951]
MT-Propeller Entwicklung GmbH; comments due by 2-12-07; published 12-13-06 [FR E6-21184]
Rolls-Royce Corp.; comments due by 2-12-07; published 12-14-06 [FR E6-21185]

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Engineering and traffic operations:
Temporary traffic control devices; work zone safety protection measures for workers and motorists; comments due by 2-16-07; published 11-1-06 [FR E6-18283]

TRANSPORTATION DEPARTMENT
Federal Motor Carrier Safety Administration
Motor carrier safety standards:
Commercial Driver's License; medical certification requirements; comments due by 2-14-07; published 11-16-06 [FR E6-19246]
Minimum levels of financial responsibility for motor carriers; rulemaking petitions; comments due by 2-13-07; published 12-15-06 [FR E6-21314]

TREASURY DEPARTMENT
Comptroller of the Currency
Depository Institution Management Interlocks Act; implementation; comments due by 2-12-07; published 1-11-07 [FR 07-00079]

TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Katrina Emergency Tax Relief Act; Hurricane Katrina displaced individuals; taxable income reduction for housing; cross-reference; comments due by 2-12-07; published 12-12-06 [FR E6-21030]

TREASURY DEPARTMENT
Thrift Supervision Office
Depository Institution Management Interlocks Act; implementation; comments due by 2-12-07; published 1-11-07 [FR 07-00079]

VETERANS AFFAIRS DEPARTMENT
Adjudication; pensions, compensation, dependency, etc.:
Persian Gulf War veterans; compensation for disabilities resulting from undiagnosed illnesses; presumptive period extension; comments due by 2-16-07; published 12-18-06 [FR E6-21531]

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

In the Federal Register on January 31, 2007, the cumulative list of Public Laws for the second session of the 109th Congress was printed incorrectly. A corrected list will be published in the **Federal Register** on February 2, 2007.

Last List January 19, 2007

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Title	Stock Number	Price	Revision Date
1	(869–060–00001–4)	5.00	[4] Jan. 1, 2006
2	(869–060–00002–0)	5.00	Jan. 1, 2006
3 (2005 Compilation and Parts 100 and 102)	(869–060–00003–8)	35.00	[1] Jan. 1, 2006
4	(869–060–00004–6)	10.00	Jan. 1, 2006
5 Parts:			
1–699	(869–060–00005–4)	60.00	Jan. 1, 2006
700–1199	(869–060–00006–2)	50.00	Jan. 1, 2006
1200–End	(869–060–00007–1)	61.00	Jan. 1, 2006
6	(869–060–00008–9)	10.50	Jan. 1, 2006
7 Parts:			
1–26	(869–060–00009–7)	44.00	Jan. 1, 2006
27–52	(869–060–00010–1)	49.00	Jan. 1, 2006
53–209	(869–060–00011–9)	37.00	Jan. 1, 2006
210–299	(869–060–00012–7)	62.00	Jan. 1, 2006
300–399	(869–060–00013–5)	46.00	Jan. 1, 2006
400–699	(869–060–00014–3)	42.00	Jan. 1, 2006
700–899	(869–060–00015–1)	43.00	Jan. 1, 2006
900–999	(869–060–00016–0)	60.00	Jan. 1, 2006
1000–1199	(869–060–00017–8)	22.00	Jan. 1, 2006
1200–1599	(869–060–00018–6)	61.00	Jan. 1, 2006
1600–1899	(869–060–00019–4)	64.00	Jan. 1, 2006
1900–1939	(869–060–00020–8)	31.00	Jan. 1, 2006
1940–1949	(869–060–00021–6)	50.00	Jan. 1, 2006
1950–1999	(869–060–00022–4)	46.00	Jan. 1, 2006
2000–End	(869–060–00023–2)	50.00	Jan. 1, 2006
8	(869–060–00024–1)	63.00	Jan. 1, 2006
9 Parts:			
1–199	(869–060–00025–9)	61.00	Jan. 1, 2006
200–End	(869–060–00026–7)	58.00	Jan. 1, 2006
10 Parts:			
1–50	(869–060–00027–5)	61.00	Jan. 1, 2006
51–199	(869–060–00028–3)	58.00	Jan. 1, 2006
200–499	(869–060–00029–1)	46.00	Jan. 1, 2006
500–End	(869–060–00030–5)	62.00	Jan. 1, 2006
11	(869–060–00031–3)	41.00	Jan. 1, 2006
12 Parts:			
1–199	(869–060–00032–1)	34.00	Jan. 1, 2006
200–219	(869–060–00033–0)	37.00	Jan. 1, 2006
220–299	(869–060–00034–8)	61.00	Jan. 1, 2006
300–499	(869–060–00035–6)	47.00	Jan. 1, 2006
500–599	(869–060–00036–4)	39.00	Jan. 1, 2006
600–899	(869–060–00037–2)	56.00	Jan. 1, 2006
900–End	(869–060–00038–1)	50.00	Jan. 1, 2006
13	(869–060–00039–9)	55.00	Jan. 1, 2006
14 Parts:			
1–59	(869–060–00040–2)	63.00	Jan. 1, 2006
60–139	(869–060–00041–1)	61.00	Jan. 1, 2006
140–199	(869–060–00042–9)	30.00	Jan. 1, 2006
200–1199	(869–060–00043–7)	50.00	Jan. 1, 2006
1200–End	(869–060–00044–5)	45.00	Jan. 1, 2006
15 Parts:			
0–299	(869–060–00045–3)	40.00	Jan. 1, 2006
300–799	(869–060–00046–1)	60.00	Jan. 1, 2006
800–End	(869–060–00047–0)	42.00	Jan. 1, 2006
16 Parts:			
0–999	(869–060–00048–8)	50.00	Jan. 1, 2006
1000–End	(869–060–00049–6)	60.00	Jan. 1, 2006
17 Parts:			
1–199	(869–060–00051–8)	50.00	Apr. 1, 2006
200–239	(869–060–00052–6)	60.00	Apr. 1, 2006
240–End	(869–060–00053–4)	62.00	Apr. 1, 2006
18 Parts:			
1–399	(869–060–00054–2)	62.00	Apr. 1, 2006
400–End	(869–060–00055–1)	26.00	[6] Apr. 1, 2006
19 Parts:			
1–140	(869–060–00056–9)	61.00	Apr. 1, 2006
141–199	(869–060–00057–7)	58.00	Apr. 1, 2006
200–End	(869–060–00058–5)	31.00	Apr. 1, 2006
20 Parts:			
1–399	(869–060–00059–3)	50.00	Apr. 1, 2006
400–499	(869–060–00060–7)	64.00	Apr. 1, 2006
500–End	(869–060–00061–5)	63.00	Apr. 1, 2006
21 Parts:			
1–99	(869–060–00062–3)	40.00	Apr. 1, 2006
100–169	(869–060–00063–1)	49.00	Apr. 1, 2006
170–199	(869–060–00064–0)	50.00	Apr. 1, 2006
200–299	(869–060–00065–8)	17.00	Apr. 1, 2006
300–499	(869–060–00066–6)	30.00	Apr. 1, 2006
500–599	(869–060–00067–4)	47.00	Apr. 1, 2006
600–799	(869–060–00068–2)	15.00	Apr. 1, 2006
800–1299	(869–060–00069–1)	60.00	Apr. 1, 2006
1300–End	(869–060–00070–4)	25.00	Apr. 1, 2006
22 Parts:			
1–299	(869–060–00071–2)	63.00	Apr. 1, 2006
300–End	(869–060–00072–1)	45.00	[7] Apr. 1, 2006
23	(869–060–00073–9)	45.00	Apr. 1, 2006
24 Parts:			
0–199	(869–060–00074–7)	60.00	Apr. 1, 2006
200–499	(869–060–00075–5)	50.00	Apr. 1, 2006
500–699	(869–060–00076–3)	30.00	Apr. 1, 2006
700–1699	(869–060–00077–1)	61.00	Apr. 1, 2006
1700–End	(869–060–00078–0)	30.00	Apr. 1, 2006
25	(869–060–00079–8)	64.00	Apr. 1, 2006
26 Parts:			
§§ 1.0–1–1.60	(869–060–00080–1)	49.00	Apr. 1, 2006
§§ 1.61–1.169	(869–060–00081–0)	63.00	Apr. 1, 2006
§§ 1.170–1.300	(869–060–00082–8)	60.00	Apr. 1, 2006
§§ 1.301–1.400	(869–060–00083–6)	47.00	Apr. 1, 2006
§§ 1.401–1.440	(869–060–00084–4)	56.00	Apr. 1, 2006
§§ 1.441–1.500	(869–060–00085–2)	58.00	Apr. 1, 2006
§§ 1.501–1.640	(869–060–00086–1)	49.00	Apr. 1, 2006
§§ 1.641–1.850	(869–060–00087–9)	61.00	Apr. 1, 2006
§§ 1.851–1.907	(869–060–00088–7)	61.00	Apr. 1, 2006
§§ 1.908–1.1000	(869–060–00089–5)	60.00	Apr. 1, 2006
§§ 1.1001–1.1400	(869–060–00090–9)	61.00	Apr. 1, 2006
§§ 1.1401–1.1550	(869–060–00091–2)	58.00	Apr. 1, 2006
§§ 1.1551–End	(869–060–00092–5)	50.00	Apr. 1, 2006
2–29	(869–060–00093–3)	60.00	Apr. 1, 2006
30–39	(869–060–00094–1)	41.00	Apr. 1, 2006
40–49	(869–060–00095–0)	28.00	Apr. 1, 2006
50–299	(869–060–00096–8)	42.00	Apr. 1, 2006

Title	Stock Number	Price	Revision Date
300–499	(869–060–00097–6)	61.00	Apr. 1, 2006
500–599	(869–060–00098–4)	12.00	[5] Apr. 1, 2006
600–End	(869–060–00099–2)	17.00	Apr. 1, 2006
27 Parts:			
1–399	(869–060–00100–0)	64.00	Apr. 1, 2006
400–End	(869–060–00101–8)	18.00	Apr. 1, 2006
28 Parts:			
0–42	(869–060–00102–6)	61.00	July 1, 2006
43–End	(869–060–00103–4)	60.00	July 1, 2006
29 Parts:			
0–99	(869–060–00104–2)	50.00	July 1, 2006
100–499	(869–060–00105–1)	23.00	July 1, 2006
500–899	(869–060–00106–9)	61.00	July 1, 2006
900–1899	(869–060–00107–7)	36.00	July 1, 2006
1900–1910 (§§ 1900 to 1910.999)	(869–060–00108–5)	61.00	July 1, 2006
1910 (§§ 1910.1000 to end)	(869–060–00109–3)	46.00	July 1, 2006
1911–1925	(869–060–00110–7)	30.00	July 1, 2006
1926	(869–060–00111–5)	50.00	July 1, 2006
1927–End	(869–060–00112–3)	62.00	July 1, 2006
30 Parts:			
1–199	(869–060–00113–1)	57.00	July 1, 2006
200–699	(869–060–00114–0)	50.00	July 1, 2006
700–End	(869–060–00115–8)	58.00	July 1, 2006
31 Parts:			
0–199	(869–060–00116–6)	41.00	July 1, 2006
200–499	(869–060–00117–4)	46.00	July 1, 2006
500–End	(869–060–00118–2)	62.00	July 1, 2006
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	(869–060–00119–1)	61.00	July 1, 2006
191–399	(869–060–00120–4)	63.00	July 1, 2006
400–629	(869–060–00121–2)	50.00	July 1, 2006
630–699	(869–060–00122–1)	37.00	July 1, 2006
700–799	(869–060–00123–9)	46.00	July 1, 2006
800–End	(869–060–00124–7)	47.00	July 1, 2006
33 Parts:			
1–124	(869–060–00125–5)	57.00	July 1, 2006
125–199	(869–060–00126–3)	61.00	July 1, 2006
200–End	(869–060–00127–1)	57.00	July 1, 2006
34 Parts:			
1–299	(869–060–00128–0)	50.00	July 1, 2006
300–399	(869–060–00129–8)	40.00	July 1, 2006
400–End & 35	(869–060–00130–1)	61.00	[8] July 1, 2006
36 Parts:			
1–199	(869–060–00131–0)	37.00	July 1, 2006
200–299	(869–060–00132–8)	37.00	July 1, 2006
300–End	(869–060–00133–6)	61.00	July 1, 2006
37	(869–060–00134–4)	58.00	July 1, 2006
38 Parts:			
0–17	(869–060–00135–2)	60.00	July 1, 2006
18–End	(869–060–00136–1)	62.00	July 1, 2006
39	(869–060–00137–9)	42.00	July 1, 2006
40 Parts:			
1–49	(869–060–00138–7)	60.00	July 1, 2006
50–51	(869–060–00139–5)	45.00	July 1, 2006
52 (52.01–52.1018)	(869–060–00140–9)	60.00	July 1, 2006
52 (52.1019–End)	(869–060–00141–7)	61.00	July 1, 2006
53–59	(869–060–00142–5)	31.00	July 1, 2006
60 (60.1–End)	(869–060–00143–3)	58.00	July 1, 2006
60 (Apps)	(869–060–00144–7)	57.00	July 1, 2006
61–62	(869–060–00145–0)	45.00	July 1, 2006
63 (63.1–63.599)	(869–060–00146–8)	58.00	July 1, 2006
63 (63.600–63.1199)	(869–060–00147–6)	50.00	July 1, 2006
63 (63.1200–63.1439)	(869–060–00148–4)	50.00	July 1, 2006
63 (63.1440–63.6175)	(869–060–00149–2)	32.00	July 1, 2006
63 (63.6580–63.8830)	(869–060–00150–6)	32.00	July 1, 2006
63 (63.8980–End)	(869–060–00151–4)	35.00	July 1, 2006
64–71	(869–060–00152–2)	29.00	July 1, 2006
72–80	(869–060–00153–1)	62.00	July 1, 2006
81–85	(869–060–00154–9)	60.00	July 1, 2006
86 (86.1–86.599–99)	(869–060–00155–7)	58.00	July 1, 2006
86 (86.600–1–End)	(869–060–00156–5)	50.00	July 1, 2006
87–99	(869–060–00157–3)	60.00	July 1, 2006
100–135	(869–060–00158–1)	45.00	July 1, 2006
136–149	(869–060–00159–0)	61.00	July 1, 2006
150–189	(869–060–00160–3)	50.00	July 1, 2006
190–259	(869–060–00161–1)	39.00	July 1, 2006
260–265	(869–060–00162–0)	50.00	July 1, 2006
266–299	(869–060–00163–8)	50.00	July 1, 2006
300–399	(869–060–00164–6)	42.00	July 1, 2006
400–424	(869–060–00165–4)	56.00	July 1, 2006
425–699	(869–060–00166–2)	61.00	July 1, 2006
700–789	(869–060–00167–1)	61.00	July 1, 2006
790–End	(869–060–00168–9)	61.00	July 1, 2006
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–060–00169–7)	24.00	July 1, 2006
101	(869–060–00170–1)	21.00	[8] July 1, 2006
102–200	(869–060–00171–9)	56.00	July 1, 2006
201–End	(869–060–00172–7)	24.00	July 1, 2006
42 Parts:			
1–399	(869–060–00173–5)	61.00	Oct. 1, 2006
400–413	(869–060–00174–3)	32.00	Oct. 1, 2006
414–429	(869–060–00175–1)	32.00	Oct. 1, 2006
430–End	(869–060–00176–0)	64.00	Oct. 1, 2006
43 Parts:			
1–999	(869–060–00177–8)	56.00	Oct. 1, 2006
1000–end	(869–060–00178–6)	62.00	Oct. 1, 2006
44	(869–060–00179–4)	50.00	Oct. 1, 2006
45 Parts:			
1–199	(869–060–00180–8)	60.00	Oct. 1, 2006
200–499	(869–060–00181–6)	34.00	Oct. 1, 2006
500–1199	(869–060–00182–4)	56.00	Oct. 1, 2006
1200–End	(869–060–00183–2)	61.00	Oct. 1, 2006
46 Parts:			
1–40	(869–060–00184–1)	46.00	Oct. 1, 2006
41–69	(869–060–00185–9)	39.00	Oct. 1, 2006
70–89	(869–060–00186–7)	14.00	Oct. 1, 2006
90–139	(869–060–00187–5)	44.00	Oct. 1, 2006
140–155	(869–060–00188–3)	25.00	Oct. 1, 2006
156–165	(869–060–00189–1)	34.00	Oct. 1, 2006
166–199	(869–060–00190–5)	46.00	Oct. 1, 2006
200–499	(869–060–00191–3)	40.00	Oct. 1, 2006
500–End	(869–060–00192–1)	25.00	Oct. 1, 2006
47 Parts:			
0–19	(869–060–00193–0)	61.00	Oct. 1, 2006
20–39	(869–060–00194–8)	46.00	Oct. 1, 2006
40–69	(869–060–00195–6)	40.00	Oct. 1, 2006
70–79	(869–060–00196–4)	61.00	Oct. 1, 2006
80–End	(869–060–00197–2)	61.00	Oct. 1, 2006
48 Chapters:			
1 (Parts 1–51)	(869–060–00198–1)	63.00	Oct. 1, 2006
1 (Parts 52–99)	(869–060–00199–9)	49.00	Oct. 1, 2006
2 (Parts 201–299)	(869–060–00200–6)	50.00	Oct. 1, 2006
3–6	(869–060–00201–4)	34.00	Oct. 1, 2006
7–14	(869–060–00202–2)	56.00	Oct. 1, 2006

Title	Stock Number	Price	Revision Date
15–28	(869–060–00203–1)	47.00	Oct. 1, 2006
29–End	(869–060–00204–9)	47.00	Oct. 1, 2006
49 Parts:			
1–99	(869–060–00205–7)	60.00	Oct. 1, 2006
*100–185	(869–060–00206–5)	63.00	Oct. 1, 2006
186–199	(869–060–00207–3)	23.00	Oct. 1, 2006
200–299	(869–060–00208–1)	32.00	Oct. 1, 2006
300–399	(869–060–00209–0)	32.00	Oct. 1, 2006
400–599	(869–060–00210–3)	64.00	Oct. 1, 2006
600–999	(869–060–00211–1)	19.00	Oct. 1, 2006
1000–1199	(869–060–00212–0)	28.00	Oct. 1, 2006
1200–End	(869–060–00213–8)	34.00	Oct. 1, 2006
50 Parts:			
1–16	(869–060–00214–6)	11.00	[9] Oct. 1, 2006
17.1–17.95(b)	(869–060–00215–4)	32.00	Oct. 1, 2006
17.95(c)–end	(869–060–00216–2)	32.00	Oct. 1, 2006
17.96–17.99(h)	(869–060–00217–1)	61.00	Oct. 1, 2006
17.99(i)–end and 17.100–end	(869–060–00218–9)	47.00	[9] Oct. 1, 2006
18–199	(869–060–00219–7)	50.00	Oct. 1, 2006
200–599	(869–060–00220–1)	45.00	Oct. 1, 2006
600–659	(869–060–00221–9)	31.00	Oct. 1, 2006
*660–End	(869–060–00222–7)	31.00	Oct. 1, 2006
CFR Index and Findings Aids	(869–060–00050–0)	62.00	Jan. 1, 2006
Complete 2007 CFR set		1,389.00	2007
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2007
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Complete set (one-time mailing)		332.00	2006
Complete set (one-time mailing)		325.00	2005

[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, 2006. 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, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2005 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.