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

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 890

**RIN: 3206–AK98**

### FEHB Coverage and Premiums for Active Duty Members of the Military

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management is issuing a final regulation to change the Federal Employee Health Benefits (FEHB) Program regulations that govern continued coverage for employees who are called or ordered to serve in the uniformed services. These final regulations provide extended FEHB coverage for up to 24 months to Federal employees called or ordered to active duty and who meet certain requirements, including serving in support of a contingency operation. Those employees who are called or ordered to active duty in support of a contingency operation are also eligible for premium payments by their employing agency. The purpose of these final regulations is to authorize Federal agencies to continue health benefits coverage for up to 24 months for those employees called or ordered to active duty, with certain employees qualifying for agency premium contributions.

**EFFECTIVE DATE:** The effective date of this final regulation is April 16, 2007.

**FOR FURTHER INFORMATION CONTACT:** Michael W. Kaszynski, Policy Analyst, Insurance Policy, OPM, Room 3425, 1900 E Street NW., Washington, DC 20415–0001. Phone number: 202–606–0004. E-mail: *mwkaszy@opm.gov*.

**SUPPLEMENTARY INFORMATION:** The National Defense Authorization Act for 2005 (Pub. L. 108–375 section 1101) amended FEHB law to provide up to 24 months of continued FEHB coverage for Federal employees who are called or ordered to active duty in support of a contingency operation (5 U.S.C. 8905a), and to authorize agencies to pay the employee's share and the Government's share of premiums for up to 24 months (5 U.S.C. 8906(e)(3)). The Act provides that this enhanced benefit is available for any employee who:

(1) Is enrolled in the FEHB Program;

(2) Is a member of a reserve component of the armed forces;

(3) Is called or ordered to active duty in support of a contingency operation (as defined in section 101(a)(13) of title 10 U.S.C.);

(4) Is placed on leave without pay or separated from service to perform active duty; and

(5) Serves on active duty for more than 30 consecutive days.

The expanded authority for agency premium payments authorized by Public Law 108–375 is a valuable benefit that helps reservists and their families shoulder the cost of health care during a time when they need it most. Public Law 108–454, the Veterans' Benefits Improvement Act of 2004, was enacted December 10, 2004. Section 201 of Public Law 108–454 amended 38 U.S.C. 4317(a)(1)(A) to extend from 18 to 24 months the length of an employee's health insurance coverage when the employee is absent because of service in the uniformed services. For FEHB purposes, this law applies to employees who are called to active duty but do not meet all the requirements of Public Law 108–375. Generally, these employees have orders that do not show that they are called to active duty in support of a contingency operation. As before, they do not meet the requirements of FEHB law for agency premium payment during active duty. This final regulation's purpose is to place into rulemaking the requirements of Public Law 108–375 and Public Law 108–454.

On June 20, 2006, the Office of Personnel Management (OPM) published a proposed regulation in the **Federal Register** at 71 FR 35397. OPM received comments from a Federal agency and an employee union in response to the proposed regulation. The Federal agency pointed out that 5 U.S.C. 8905a now allows the 24 months of continued coverage to begin on the date that the employee is placed on leave without pay or separated from service to perform active duty in the uniformed services. We agree that the law now further defines when the 24 months of continued coverage begins so we have made an appropriate revision to the regulation. The agency also asked that we clarify section 890.502(f)(2) of the regulation to show that agency payment of the Government and employee contributions and any additional administrative expenses is only authorized while the employee is on orders to serve in a contingency operation and that these contributions will cease when the employee is no longer serving in support of a contingency operation. We have revised the regulation to make this clarification. A comment made by an employee union states that the regulation should authorize eligibility for continued, fully subsidized FEHB coverage for the entire length of a Federal employee's deployment in the unformed services. While we would like to offer as much support as possible to those in the uniformed services, the laws upon which our regulation is based only authorize us to offer employees up to 24 months of subsidized coverage, at the agency's discretion, while serving in support of a contingency operation in the uniformed services. As a matter of law, the benefits provided for in our regulation cannot exceed those authorized by legislation (Pub. L. 108–375 and 108–454).

### Regulatory Flexibility Act

I certify that this final regulation will not have a significant economic impact on a substantial number of small entities because the regulation affects only health insurance carriers under the Federal Employees Health Benefits Program.

### Executive Order 12866, Regulatory Review

This regulation 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 section 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. Section 890.303 paragraph (i) is revised to read as follows:

### § 890.303 Continuation of enrollment.

* * * * *

(i) Service in the uniformed services. (1) The enrollment of an individual who separates, enters military furlough, or is placed in nonpay status to serve in the uniformed services under conditions that entitle him or her to benefits under part 353 of this chapter, or similar authority, may continue for the 24-month period beginning on the date that the employee is placed on leave without pay or separated from service to perform active duty in the uniformed services, provided that the individual continues to be entitled to benefits under part 353 of this chapter, or similar authority. As provided for by 5 U.S.C. 8905(a), the continuation of enrollment for up to 24 months applies to employees called or ordered to active duty in support of a contingency operation on or after September 14, 2001. The enrollment of an employee who met the requirements of chapter 43 of title 38, United States Code, on or after December 10, 2004, may continue for the 24-month period beginning on the date that the employee is placed on leave without pay or separated from service to perform active duty in the uniformed services, provided that the employee continues to be entitled to continued coverage under part 353 of this chapter, or similar authority.

(2) An employee in nonpay status is entitled to continued coverage under paragraph (e) of this section if the employee's entitlement to benefits under part 353 of this chapter, or similar authority, ends before the expiration of 365 days in nonpay status.

(3) If the enrollment of an employee had terminated due to the expiration of 365 days in nonpay status or because of the employee's separation from service, it may be reinstated for the remainder of the 24-month period beginning on the date that the employee is placed on leave without pay or separated from service to perform active duty in the uniformed services, provided that the employee continues to be entitled to continued coverage under part 353 of this chapter, or similar authority.

■ 3. Section 890.304 paragraphs (a)(1)(vii) and (a)(1)(viii) are revised to read as follows:

### § 890.304 Termination of enrollment.

(a) * * *

(1) * * *

(vii) For an employee who separates to serve in the uniformed services under conditions entitling him or her to benefits under part 353 of this chapter, or similar authority, for the purpose of performing duty not limited to 30 days or less, the date that is 24 months after the date that the employee is placed on leave without pay or separated from service to perform active duty in the uniformed services, or the date entitlement to benefits under part 353 of this chapter, or similar authority, ends, whichever is earlier, unless the enrollment is terminated under paragraph (a)(1)(vi) of this section.

(viii) For an employee who is furloughed or placed on leave of absence under conditions entitling him or her to benefits under part 353 of this chapter, or similar authority, the date that is 24 months after the date that the employee is placed on leave without pay or separated from service to perform active duty to serve in the uniformed services, or the date entitlement to benefits under part 353 of this chapter, or similar authority, ends, whichever is earlier, but not earlier than the date the enrollment would otherwise terminate under paragraph (a)(1)(v) of this section.

* * * * *

■ 4. Section 890.502 paragraph (f) is revised to read as follows:

### § 890.502 Employee withholdings and contributions.

* * * * *

(f) Uniformed services. (1) Except as provided in paragraph (f)(2) of this section, an employee whose coverage continues under § 890.303(i) is responsible for payment of the employee share of the cost of enrollment for every pay period for which the enrollment continues for the first 365 days of continued coverage as set forth under paragraph (b) of this section. For coverage that continues after 365 days in nonpay status, the employee must pay, on a current basis, the full subscription charge, including both the employee and Government shares, plus an additional 2 percent of the full subscription charge.

(2) As provided by 5 U.S.C. 8906(e)(3), an employing agency may pay both the Government and employee contributions and any additional administrative expenses for the cost of coverage for the employee and the employee's family for a period of 24 months for employees called or ordered to active duty in support of a contingency operation on or after September 14, 2001. The payment of Government and employee contributions and any additional administrative expenses authorized by this section only applies to employees while they are serving in support of a contingency operation, and eligibility for these payments terminates when the employee ceases to be on orders for a contingency operation. Payment of these contributions and expenses is solely at the discretion of the employing agency.

[FR Doc. E7–2619 Filed 2–14–07; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Parts 1, 121 and 135

**[Docket No. FAA–2002–6717; Amendment Nos. 1–55, 121–329, 135–108]**

**RIN 2120–AI03**

## Extended Operations (ETOPS) of Multi-Engine Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** The Federal Aviation Administration is correcting a final rule published in the **Federal Register** on January 16, 2007 (72 FR 1808). That final rule applied to air carrier (part 121), commuter, and on-demand (part 135) turbine powered multi-engine airplanes used in passenger-carrying, and some all-cargo, extended-range operations. This amendment corrects the rule language applicable to dual maintenance and formatting of a Part 1 definition and section of Appendix G. None of these changes is substantive, but will clarify the FAA's intent of the final rule for the public.

**DATES:** These amendments become effective February 15, 2007.

**FOR FURTHER INFORMATION CONTACT:** For technical information on operational issues, contact Robert Reich, Flight

Standards Service, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–8166; facsimile (202) 267–5229; e-mail *Robert.Reich@faa.gov*. For technical information on certification issues, contact Steve Clark, Transport Airplane Directorate, ANM–140S, 1601 Lind Ave., Renton, WA 98055; telephone (425) 917–6496; facsimile (425) 917–6590; e-mail *Steven.P.Clark@FAA.gov*. For legal information, contact Bruce Glendening, Office of the Chief Counsel, Division of Regulations, Federal Aviation Administration, 800 Independence Avenue, Washington, DC 20591; telephone (202) 267–3073; facsimile (202) 267–7971; e-mail *Bruce.Glendening@faa.gov*.

**SUPPLEMENTARY INFORMATION:** The final rule, Extended Operations (ETOPS) of Multi-engine Airplanes, applied to air carrier (part 121), commuter, and on-demand (part 135) turbine powered multi-engine airplanes used in passenger-carrying, extended-range operations. (January 16, 2007; 72 FR 1808) All-cargo operations in airplanes with more than two engines of both part 121 and part 135 were exempted from the majority of this rule. The rule established regulations governing the design, operation and maintenance of certain airplanes operated on flights that fly long distances from an adequate airport. It codified current FAA policy, industry best practices and recommendations, as well as international standards designed to ensure long-range flights will continue to operate safely. To ease the transition for current operators, the rule included delayed compliance dates for certain ETOPS requirements.

## Need for the Correction

Following publication of the final rule, it was brought to the attention of the FAA that the original intent of the concept of ''dual maintenance'' in the final rule did not codify existing FAA ETOPS guidance as published in the notice of proposed rulemaking. This amendment clarifies that language in 14 CFR 121.374.

The concept of ''dual maintenance'' was set out in the preamble to the NPRM:

''(2) Dual Maintenance

Dual maintenance is a concept relating to repetition of maintenance errors on redundant systems. There have been instances of a single mechanic repeating a maintenance error on multiple systems. An example of dual maintenance error is failing to install o-rings on engine oil or fuel components on multiple engines. Establishing procedures to avoid dual maintenance can minimize the probability of such errors. The use of two or more mechanics reduces the risk of this type of error. Routine tasks on multiple similar elements, such as oil and fuel filter changes, should never be scheduled and assigned on the same maintenance visit.

However, the FAA is aware that under some limited circumstances, dual maintenance may be unavoidable. For instance, a pilot's report of a discrepancy on an ETOPS significant system may require maintenance on one engine at the same time as a scheduled maintenance event for the other engine. In such cases, the certificate holder must establish and follow procedures to mitigate the risk of a common cause human error.''

The final rule, however, would appear to go beyond this concept and prohibit the maintenance of more than one ETOPS Significant System during a single maintenance visit. In the final rule, 14 CFR 121.374 (c) read:

''(c) Limitations on dual maintenance.

(1) Except as specified in paragraph (c)(2), the certificate holder may not perform scheduled or unscheduled maintenance during the same maintenance visit on more than one ETOPS Significant System listed in the ETOPS maintenance document, if the improper maintenance could result in the failure of an ETOPS Significant System.

(2) In the event an unforeseen circumstance prevents the certificate holder from complying with paragraph (c)(1) of this section, the certificate holder may perform maintenance on more than one ETOPS Significant System provided:

(i) The maintenance action on each ETOPS Significant System is performed by a different technician, or

(ii) The maintenance action on each ETOPS Significant System is performed by the same technician under the direct supervision of a second qualified individual; and

(iii) For either paragraph (c)(2)(i) or (ii) of this section, a qualified individual conducts a ground verification test and any in-flight verification test required under the program developed pursuant to paragraph (d) of this section.''

As written, a certificate holder would be forced to schedule a separate maintenance visit for each ETOPS significant system; moreover, scheduled maintenance would not qualify as an ''unforeseen circumstance'' in paragraph (2). The FAA finds that the intent of dual maintenance is clarified by writing 14 CFR 121.374 (c) as:

''(c) *Limitations on dual maintenance.*

(1) Except as specified in paragraph (c)(2), the certificate holder may not perform scheduled or unscheduled dual maintenance during the same maintenance visit on the same or a substantially similar ETOPS Significant System listed in the ETOPS maintenance document, if the improper maintenance could result in the failure of an ETOPS Significant System.

(2) In the event dual maintenance as defined in paragraph (c)(1) of this section can not be avoided, the certificate holder may perform maintenance provided:

(i) The maintenance action on each affected ETOPS Significant System is performed by a different technician, or

(ii) The maintenance action on each affected ETOPS Significant System is performed by the same technician under the direct supervision of a second qualified individual; and

(iii) For either paragraph (c)(2)(i) or (ii) of this section, a qualified individual conducts a ground verification test and any in-flight verification test required under the program developed pursuant to paragraph (d) of this section.''

Additionally, in Part 1, Definitions, the FAA corrects the definition of Extended operation (ETOPS) to add commas to avoid misinterpretation. Also, we correct the numbering of section G135.2.7 in Appendix G in Part 135.

## Corrections

Part 1—Commas inserted in the definition of ETOPS in section 1.1 to avoid misinterpretation.

Part 121—Section 121.374 (c) is re-written to clarify restrictions on dual maintenance.

Part 135—Section G135.2.7 is re-numbered correctly.

## List of Subjects

*14 CFR Parts 1 and 121*

Air carriers, Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

*14 CFR Part 135*

Air taxis, Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Drug testing, Reporting and recordkeeping requirements.

## The Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR parts 1, 121, and 135 as follows:

## PART 1—DEFINITIONS AND ABBREVIATIONS

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

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

■ 2. In § 1.1, revise the following definition, in alphabetical order, to read as follows:

### § 1.1 General definitions.

* * * * *

*Extended Operations (ETOPS)* means an airplane flight operation, other than an all-cargo operation in an airplane with more than two engines, during which a portion of the flight is conducted beyond a time threshold identified in part 121 or part 135 of this chapter that is determined using an approved one-engine-inoperative cruise speed under standard atmospheric conditions in still air.

* * * * *

## PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 3. The authority citation for part 121 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701-44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903-44904, 44912, 45101–45105, 46105, 46301.

■ 4. In § 121.374, revise paragraph (c) to read as follows:

* * * * *

(c) *Limitations on dual maintenance.*

(1) Except as specified in paragraph (c)(2), the certificate holder may not perform scheduled or unscheduled dual maintenance during the same maintenance visit on the same or a substantially similar ETOPS Significant System listed in the ETOPS maintenance document, if the improper maintenance could result in the failure of an ETOPS Significant System.

(2) In the event dual maintenance as defined in paragraph (c)(1) of this section cannot be avoided, the certificate holder may perform maintenance provided:

(i) The maintenance action on each affected ETOPS Significant System is performed by a different technician, or

(ii) The maintenance action on each affected ETOPS Significant System is performed by the same technician under the direct supervision of a second qualified individual; and

(iii) For either paragraph (c)(2)(i) or (ii) of this section, a qualified individual conducts a ground verification test and any in-flight verification test required under the program developed pursuant to paragraph (d) of this section.

* * * * *

## PART 135—OPERATING REQUIREMENTS; COMMUTER AND ON DEMAND OPERATION AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 5. The authority citation for part 135 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 41706, 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

■ 6. In appendix G of part 135, revise section 135.2.7 to read as follows:

### Appendix G to Part 135—Extended Operations (ETOPS)

* * * * *

G135.2.7 *Fuel Requirements.* No person may dispatch or release for flight an ETOPS flight unless, considering wind and other weather conditions expected, it has the fuel otherwise required by this part and enough fuel to satisfy each of the following requirements:

(a) *Fuel to fly to an ETOPS Alternate Airport.*

(1) Fuel to account for rapid decompression and engine failure. The airplane must carry the greater of the following amounts of fuel:

(i) Fuel sufficient to fly to an ETOPS Alternate Airport assuming a rapid decompression at the most critical point followed by descent to a safe altitude in compliance with the oxygen supply requirements of § 135.157;

(ii) Fuel sufficient to fly to an ETOPS Alternate Airport (at the one-engine-inoperative cruise speed under standard conditions in still air) assuming a rapid decompression and a simultaneous engine failure at the most critical point followed by descent to a safe altitude in compliance with the oxygen requirements of § 135.157; or

(iii) Fuel sufficient to fly to an ETOPS Alternate Airport (at the one-engine-inoperative cruise speed under standard conditions in still air) assuming an engine failure at the most critical point followed by descent to the one engine inoperative cruise altitude.

(2) Fuel to account for errors in wind forecasting. In calculating the amount of fuel required by paragraph G135.2.7(a)(1) of this appendix, the certificate holder must increase the actual forecast wind speed by 5% (resulting in an increase in headwind or a decrease in tailwind) to account for any potential errors in wind forecasting. If a certificate holder is not using the actual forecast wind based on a wind model accepted by the FAA, the airplane must carry additional fuel equal to 5% of the fuel required by paragraph G135.2.7(a) of this appendix, as reserve fuel to allow for errors in wind data.

(3) Fuel to account for icing. In calculating the amount of fuel required by paragraph G135.2.7(a)(1) of this appendix, (after completing the wind calculation in G135.2.7(a)(2) of this appendix), the certificate holder must ensure that the airplane carries the greater of the following amounts of fuel in anticipation of possible icing during the diversion:

(i) Fuel that would be burned as a result of airframe icing during 10 percent of the time icing is forecast (including the fuel used by engine and wing anti-ice during this period).

(ii) Fuel that would be used for engine anti-ice, and if appropriate wing anti-ice, for the entire time during which icing is forecast.

(4) Fuel to account for engine deterioration. In calculating the amount of fuel required by paragraph G135.2.7(a)(1) of this appendix (after completing the wind calculation in paragraph G135.2.7(a)(2) of this appendix), the certificate holder must ensure the airplane also carries fuel equal to 5% of the fuel specified above, to account for deterioration in cruise fuel burn performance unless the certificate holder has a program to monitor airplane in-service deterioration to cruise fuel burn performance.

(b) *Fuel to account for holding, approach, and landing.* In addition to the fuel required by paragraph G135.2.7 (a) of this appendix, the airplane must carry fuel sufficient to hold at 1500 feet above field elevation for 15 minutes upon reaching the ETOPS Alternate Airport and then conduct an instrument approach and land.

(c) *Fuel to account for APU use.* If an APU is a required power source, the certificate holder must account for its fuel consumption during the appropriate phases of flight.

* * * * *

Issued in Washington, DC on February 9, 2007.

**Rebecca MacPherson,**

*Assistant Chief Counsel, Regulations Division.*

[FR Doc. 07–704 Filed 2–12–07; 3:52 pm]

BILLING CODE 4910–13–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 522

## Implantation or Injectable Dosage Form New Animal Drugs; Trenbolone Acetate and Estradiol

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Intervet, Inc. The NADA provides for use of an additional dose of trenbolone acetate and estradiol implant used for increased

rate of weight gain and improved feed efficiency in feedlot steers.

**DATES:** This rule is effective February 15, 2007.

**FOR FURTHER INFORMATION CONTACT:** Eric S. Dubbin, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0232, e-mail: *eric.dubbin@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:** Intervet, Inc., P.O. Box 318, 29160 Intervet Ln., Millsboro, DE 19966, filed NADA 141–269 that provides for REVALOR XS (trenbolone acetate and estradiol), an ear implant, used for increased rate of weight gain and improved feed efficiency in steers fed in confinement for slaughter. The supplemental NADA is approved as of January 19, 2007, and the regulations are amended in § 522.2477 (21 CFR 522.2477) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, FDA is revising the regulations in § 522.2477 to correctly reflect products approved for another sponsor. This action is being taken to improve the accuracy of the regulations.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning January 19, 2007.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

**List of Subjects in 21 CFR Part 522**

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

## PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

■ 2. In § 522.2477, revise paragraphs (b)(1), (b)(2), and (b)(3); and add paragraph (d)(1)(i)(G) to read as follows:

**§ 522.2477 Trenbolone acetate and estradiol.**

(b) * * *

(1) No. 021641 for use as in paragraphs (d)(1)(i)(A), (d)(1)(i)(B), (d)(1)(i)(C), (d)(1)(i)(D), (d)(1)(i)(E), (d)(1)(i)(F), (d)(1)(ii), (d)(1)(iii), (d)(2), and (d)(3) of this section.

(2) No. 057926 for use as in paragraphs (d)(1)(i)(A), (d)(1)(i)(C), (d)(1)(i)(D), (d)(1)(i)(G), (d)(1)(ii), (d)(1)(iii), (d)(2)(i)(A), (d)(2)(i)(C), (d)(2)(i)(D), (d)(2)(ii), (d)(2)(iii), (d)(3)(i)(A), (d)(3)(ii), and (d)(3)(iii) of this section.

(3) No. 000856 for use as in paragraphs (d)(1)(i)(A), (d)(1)(i)(D), (d)(1)(ii), (d)(1)(iii), (d)(3)(i)(A), (d)(3)(ii), and (d)(3)(iii) of this section.

(d) * * *

(1) * * *

(i) * * *

(G) 200 milligram (mg) trenbolone acetate and 40 mg estradiol (one implant consisting of 10 pellets, each pellet containing 20 mg trenbolone acetate and 4 mg estradiol) per implant dose.

Dated: February 6, 2007.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*

[FR Doc. E7–2580 Filed 2–14–07; 8:45 am]

BILLING CODE 4160–01–S

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## PENSION BENEFIT GUARANTY CORPORATION

## 29 CFR Parts 4022 and 4044

## Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in March 2007. Interest assumptions are also published on the PBGC's Web site (*http://www.pbgc.gov*).

**DATES:** Effective March 1, 2007.

**FOR FURTHER INFORMATION CONTACT:** Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

**SUPPLEMENTARY INFORMATION:** The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to Part 4022).

This amendment (1) adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during March 2007, (2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during March 2007, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during March 2007.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 5.22 percent for the first 20 years following the valuation date and 4.89 percent thereafter. These interest assumptions

represent an increase (from those in effect for February 2007) of 0.09 percent for the first 20 years following the valuation date and 0.09 percent for all years thereafter.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 3.00 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent no change from those in effect for February 2007. For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during March 2007, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

**List of Subjects**

*29 CFR Part 4022*

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

*29 CFR Part 4044*

Employee benefit plans, Pension insurance, Pensions.

■ In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

## PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

**Authority:** 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 161, as set forth below, is added to the table.

**Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments**

* * * * *

| Rate set | For plans with a valuation date | | Immediate annuity rate (percent) | Deferred annuities (percent) | | | | |
|---|---|---|---|---|---|---|---|---|
| | On or after | Before | | $i_1$ | $i_2$ | $i_3$ | $n_1$ | $n_2$ |
| * | * | * | | * | * | * | * | |
| 161 | 3–1–07 | 4–1–07 | 3.00 | 4.00 | 4.00 | 4.00 | 7 | 8 |

■ 3. In appendix C to part 4022, Rate Set 161, as set forth below, is added to the table.

**Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments**

* * * * *

| Rate set | For plans with a valuation date | | Immediate annuity rate (percent) | Deferred annuities (percent) | | | | |
|---|---|---|---|---|---|---|---|---|
| | On or after | Before | | $i_1$ | $i_2$ | $i_3$ | $n_1$ | $n_2$ |
| * | * | * | | * | * | * | * | |
| 161 | 3–1–07 | 4–1–07 | 3.00 | 4.00 | 4.00 | 4.00 | 7 | 8 |

## PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

**Authority:** 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry for March 2007, as set forth below, is added to the table.

**Appendix B to Part 4044—Interest Rates Used to Value Benefits**

* * * * *

| For valuation dates occurring in the month— | The values of $i_t$ are: | | | | | |
|---|---|---|---|---|---|---|
| | $i_t$ | for $t$ = | $i_t$ | for $t$ = | $i_t$ | for $t$ = |
| * | * | * | | * | * | * |
| March 2007 | .0522 | 1–20 | .0489 | >20 | N/A | N/A |

Issued in Washington, DC, on this 12th day of February 2007.

**Vincent K. Snowbarger,**

*Interim Director, Pension Benefit Guaranty Corporation.*

[FR Doc. E7–2653 Filed 2–14–07; 8:45 am]

BILLING CODE 7709–01–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Parts 117

**[USCG–2001–10881]**

**RIN 1625–AA36**

## Drawbridge Operation Regulations; Amendments

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule; correcting amendments.

**SUMMARY:** This document contains corrections to the operating schedules of the SE. Third Avenue, Andrews Avenue and Marshal (Seventh Avenue) bridges across the New River, miles 1.4, 2.3, and 2.7 respectfully and the operating schedule of the Davie Boulevard (SW. Twelfth Street) bridge across the New River, South Fork, mile 0.9, Fort Lauderdale, Broward County, Florida published on December 4, 2006 in the **Federal Register** (71 FR 70305) under docket number USCG–2001–10881.

**DATES:** This correction is effective February 15, 2007.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2001–10881 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

**FOR FURTHER INFORMATION CONTACT:** Mr. Chris Jaufmann, Office of Bridge Administration, United States Coast Guard Headquarters, 202–372–1511. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Dockets Operations, Department of Transportation, telephone 202–493–0402.

**SUPPLEMENTARY INFORMATION:** On December 4, 2006, the Coast Guard published a final rule (USCG–2001–10881) that made technical, organizational, and conforming amendments throughout 33 CFR part 117. This rule became effective on January 4, 2007. (71 FR 70305) The effective date of this final rule inadvertently changed the operating schedules of the SE. Third Avenue, Andrews Avenue and Marshal (Seventh Avenue) bridges across the New River, miles 1.4, 2.3, and 2.7 respectfully and the operating schedule of the Davie Boulevard (SW. Twelfth Street) bridge across the New River, South Fork, mile 0.9, Fort Lauderdale, Broward County, Florida. The operating schedules for these bridges had been changed in a final rule published on November 8, 2006 in the **Federal Register** (docket number CGD07–06–019) and effective on December 8, 2006. (71 FR 65414) This correction document reverts the incorrect operating schedule back to the correct schedules established by the November 8, 2006 rule codified under CGD07–06–019.

### List of Subjects in 33 CFR Part 117

Bridges.

■ Accordingly, 33 CFR part 117 is corrected by making the following correcting amendments:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1(g); and Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.313 paragraph (a) to read as follows:

### § 117.313 New River.

(a) The draw of the SE. Third Avenue bridge, mile 1.4 at Fort Lauderdale shall open on signal; except that, from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the draw need not open. Public vessels of the United States, tugs with tows, and vessels in distress shall be passed at any time.

* * * * *

■ 3. Revise § 117.315 paragraph (a) to read as follows:

### § 117.315 New River, South Fork.

(a) The draw of the Davie Boulevard (SW. Twelfth Street) bridge, mile 0.9 at Fort Lauderdale shall open on signal; except that, from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the draw need not open. Public vessels of the United States, tugs with tows, and vessels in distress shall be passed at any time.

* * * * *

Dated: February 9, 2007.

**Stefan G. Venckus,**

*Chief, Office of Regulations and Administrative Law, United States Coast Guard.*

[FR Doc. E7–2589 Filed 2–14–07; 8:45 am]

BILLING CODE 4910–15–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 |
|---|---|---|---|
| **Clark County, Illinois, and Incorporated Areas** Docket No.: FEMA B–7472 | | | |
| East Mill Creek Reservoir | | +560 | Clark County (Unincorporated Areas). |
| Mill Creek Lake | From Clarksville Road Bridge south to dam (Mill Creek Watershed Structure No. 1). | +616 | Clark County (Unincorporated Areas). |
| Lincoln Trail State Park Lake | | +547 | Clark County (Unincorporated Areas). |

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

**ADDRESSES**

Clark County, Illinois (Unincorporated Areas)

Maps are available for inspection at the Clark County Clerk's Office, Clark County Courthouse, 501 Archer Ave., Marshall, IL 62441.

| | | | |
|---|---|---|---|
| **Sangamon County Illinois and Incorporated Areas** Docket No.: FEMA B–7470 | | | |
| Lake Springfield | From Spaulding Dam south to Lindsey Bridge | +561 | City of Springfield, Sangamon County (Unincorporated Areas). |

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

**ADDRESSES**

City of Springfield

Maps are available for inspection at the Springfield-Sangamon County Regional Planning Commission, 200 South 9th Street, Room 212, Springfield, IL 62701.

Send comments to The Honorable Tim Davlin, Mayor, City of Springfield, 300 Municipal Center East, Springfield, IL 62701.

**Unincorporated Areas of Sangamon County**

Maps are available for inspection at the Springfield-Sangamon County Regional Planning Commission, 200 South 9th Street, Room 212, Springfield, IL 62701.

| | | | |
|---|---|---|---|
| **Walker County Alabama, and Incorporated Areas** Docket No.: FEMA–B–7468 | | | |
| Lost Creek | Approximately 400 feet upstream of BSNF Railway. | +406 | Walker 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 2,500 feet downstream of South Pine Street. | +411 | |

# Depth in feet above ground.
*National Geodetic Vertical Datum.
+ National American Vertical Datum.

**ADDRESSES**

Walker County (Unincorporated Areas)

Maps are available for inspection at Walker County Engineering Department, 1801 Third Avenue, Jasper, AL 35501.

Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.''

Dated: February 7, 2007.

**David I. Maurstad,**

*Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. E7–2631 Filed 2–14–07; 8:45 am]

BILLING CODE 9110–12–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 060216044–6044–01; I.D. 020907F]**

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

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

**ACTION:** Temporary rule; modification of a closure; request for comments.

**SUMMARY:** NMFS is reopening directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA) for 48 hours. This action is necessary to fully use the A season allowance of the 2007 total allowable catch (TAC) of pollock specified for Statistical Area 630 of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 12, 2007, through 1200 hrs, A.l.t., February 14, 2007. Comments must be received at the following address no later than 4:30 p.m., A.l.t., February 27, 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 to: P.O. Box 21668, Juneau, AK 99802;
- Hand delivery to the Federal Building, 709 West 9th Street, Room 420A, Juneau, Alaska;
- Fax to 907–586–7557;
- E-mail to *open630pollock@noaa.gov* and include in the subject line of the e-mail comment the document identifier: ''g63plkro2'' (E-mail comments, with or without attachments, are limited to 5 megabytes); or
- Webform at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions at that site for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 907–586–7228.

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

NMFS closed the directed fishery for pollock in Statistical Area 630 of the GOA under § 679.20(d)(1)(iii) on January 22, 2007 (72 FR 2793, January 23, 2007). The fishery was subsequently reopened on February 6, 2007 and closed on February 8, 2007 (72 FR 5346, February 6, 2007).

NMFS has determined that approximately 2,875 mt of pollock remain in the directed fishing allowance in Statistical Area 630 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the A season allowance of the 2007 TAC of pollock in Statistical Area 630, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 630 of the GOA. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 48 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA for 48 hours, effective 1200 hrs, A.l.t., February 14, 2007.

### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and 50 CFR 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of pollock in Statistical Area 630 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 9, 2007.

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

Without this inseason adjustment, NMFS could not allow the fishery for pollock in Statistical Area 630 of the GOA to be harvested in an expedient manner and in accordance with the

regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until February 27, 2007.

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

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

Dated: February 9, 2007.

**James P. Burgess**

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

[FR Doc. 07–705 Filed 2–12–07; 2:59 pm]

**BILLING CODE 3510–22–S**

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 060216045–6045–01; I.D. 020907G]**

## Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processor Vessels Using Hook-and-line Gear in the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by catcher processor vessels using hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of the 2007 total allowable catch (TAC) of Pacific cod specified for catcher processor vessels using hook-and-line gear in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 12, 2007, until 1200 hrs, A.l.t., June 10, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2007 Pacific cod TAC allocated to catcher processor vessels using hook-and-line gear in the BSAI is 32,268 metric tons as established by the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006) and subsequent adjustment (71 FR 13777, March 17, 2006). See § 679.20(c)(3)(iii) and (c)(5), and (a)(7)(i)(C).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the A season allowance of the 2007 Pacific cod TAC allocated to catcher processor vessels using hook-and-line gear in the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher processor vessels using hook-and-line gear in the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by catcher processor vessels using hook-and-line gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 9, 2007.

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

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

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

Dated: February 9, 2007.

**James P. Burgess,**

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

[FR Doc. 07–706 Filed 2–12–07; 2:59 pm]

**BILLING CODE 3510–22–S**

# Proposed Rules

Federal Register
Vol. 72, No. 31
Thursday, February 15, 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.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2006–26488; Directorate Identifier 2006–NE–43–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; General Electric Company (GE) CF6–80 Series Turbofan Engines

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for GE CF6–80 series turbofan engines having fuel shroud retaining snap rings, part number (P/N) J204P0084, installed. This proposed AD would require replacing those snap rings with a more robust design snap ring. This proposed AD results from two events of external engine fuel leakage and a subsequent under-cowl engine fire. We are proposing this AD to prevent an under-cowl engine fire and damage to the airplane during a high engine vibration event.

**DATES:** We must receive any comments on this proposed AD by April 16, 2007.

**ADDRESSES:** Use one of the following addresses to comment on this proposed AD.

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You can get the service information identified in this proposed AD from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422.

You may examine the comments on this proposed AD in the AD docket on the Internet at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone: (781) 238–7176, fax: (781) 238–7199.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2006–26488; Directorate Identifier 2006–NE–43–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the DOT Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

### Examining the AD Docket

You may examine the docket that contains the proposal, any comments received and, any final disposition in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the Docket Management Facility receives them.

### Discussion

In October 2002 and December 2005, in two CF6–80 series turbofan engine events, a fuel manifold broke due to high engine vibration. The resulting manifold break causes a condition where the leaking fuel pressure overcomes the restraining capability of the fuel shroud retaining snap ring. The fuel pressure forces the broken fuel manifold past the sealing capability of the fuel shroud. This leads to the fuel manifold unseating from the fuel shroud, causing external engine fuel leakage and a subsequent under-cowl engine fire. This condition, if not corrected, could result in under-cowl engine fires and damage to the airplane during a high engine vibration event.

### Relevant Service Information

We have reviewed and approved the technical contents of GE Service Bulletin (SB) No. CF6–80C2 S/B 73–0337, Revision 3, dated February 5, 2007, and GE SB No. CF6–80E1 S/B 73–0075, Revision 1, dated November 27, 2006. These SBs describe procedures for replacing fuel shroud retaining snap rings, P/N J204P0084, with a more robust design fuel shroud snap ring, P/N 2186M12P01 designed to withstand fuel pressure from broken fuel manifolds.

### FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require replacing fuel shroud retaining snap rings, P/N J204P0084, with fuel shroud retaining snap rings, P/N 2186M12P01. The

proposed AD would require you to use the service information described previously to perform these actions.

### Costs of Compliance

We estimate that this proposed AD would affect 853 CF6–80 series turbofan engines installed on airplanes of U.S. registry. We also estimate that it would take about 12.5 work-hours per engine to perform the proposed actions, and that the average labor rate is $80 per work-hour. Required parts would cost about $72 per engine. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $914,416.

### Authority for This Rulemaking

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

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

### Regulatory Findings

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

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

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

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

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

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

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive:

**General Electric Company:** Docket No. FAA–2006–26488; Directorate Identifier 2006–NE–43–AD.

**Comments Due Date**

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by April 16, 2007.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to the following General Electric Company (GE) turbofan engines having one or more fuel shroud retaining snap rings, part number (P/N) J204P0084, installed:

| | |
|---|---|
| CF6–80C2A1 | CF6–80C2B1F |
| CF6–80C2A2 | CF6–80C2B2F |
| CF6–80C2A3 | CF6–80C2B4F |
| CF6–80C2A5 | CF6–80C2B5F |
| CF6–80C2A8 | CF6–80C2B6F |
| CF6–80C2A5F | CF6–80C2B6FA |
| CF6–80C2B1 | CF6–80C2B7F |
| CF6–80C2B2 | CF6–80C2B8F |
| CF6–80C2B4 | CF6–80C2D1F |
| CF6–80C2B6 | CF6–80C2L1F |

(d) This AD also applies to GE CF6–80E1A1, CF6–80E1A2, CF6–80E1A3, CF6–80E1A4, and CF6–80E1A4B turbofan engines that have incorporated GE Service Bulletin (SB) No. CF6–80E1 S/B 73–0026, having one or more fuel shroud retaining snap rings, P/N J204P0084, installed.

(e) These engines are installed on, but not limited to, Airbus A300, A310, A330, Boeing 747, 767, and McDonnell Douglas MD11 airplanes.

**Unsafe Condition**

(f) This AD results from two events of external engine fuel leakage and a subsequent under-cowl engine fire. We are issuing this AD to prevent an under-cowl engine fire and damage to the airplane during a high engine vibration event.

**Compliance**

(g) You are responsible for having the actions required by this AD performed at the applicable time specified in the following Table 1 compliance schedule, unless the actions have already been done.

TABLE 1.—COMPLIANCE SCHEDULE

| If: | Then: |
|---|---|
| The engine is listed in paragraph (c) of this AD, and has incorporated GE SB No. CF6–80C2 S/B 73–0253 (which eliminates the fuel drain system manifold and introduces a new drainless fuel manifold). | Comply with this AD at the next engine shop visit for any reason after the effective date of this AD. |
| The engine is listed in paragraph (c) of this AD, and has not incorporated GE SB No. CF6–80C2 S/B 73–0253. | Comply with this AD as soon as one or more fuel shroud retaining snap rings are removed from the engine. |
| The engine is listed in paragraph (d) of this AD, and has not incorporated GE SB No. CF6–80E1 S/B 73–0026 (which eliminates the fuel drain system manifold and introduces a new drainless fuel manifold). | Then no action is required. |
| The engine is listed in paragraph (d) of this AD, and has incorporated GE SB No. CF6–80E1 S/B 73–0026. | Comply with this AD at the next engine shop visit for any reason after the effective date of this AD. |

**Replacement of Fuel Shroud Retaining Snap Rings**

(h) Replace any fuel shroud retaining snap rings, P/N J204P0084, with a fuel shroud retaining snap ring, P/N 2186M12P01. Each engine has a total of 30 snap rings installed.

(i) For CF6–80C2 series engines, use paragraphs 3.A. through 3.C.(1)(b)2, of GE SB No. CF6–80C2 S/B 73–0337, Revision 3, dated February 5, 2007, to do the replacements.

(j) For CF6–80E1 series engines, use paragraphs 3.A. through 3.C.(1)(b)2, of GE SB No. CF6–80E1 S/B 73–0075, Revision 1, dated November 27, 2006, to do the replacements.

**Alternative Methods of Compliance**

(k) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

**Related Information**

(l) Contact James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7176; fax (781) 238–7199; e-mail: *james.lawrence@faa.gov* for more information about this AD.

Issued in Burlington, Massachusetts, on February 9, 2007.

**Peter A. White,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. E7–2625 Filed 2–14–07; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2007–27258; Directorate Identifier 2006–NM–213–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Cessna Model 500, 501, 550, 551, S550, 560, 560XL, and 750 Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Cessna Model 500, 550, S550, 560, 560XL, and 750 airplanes. The existing AD currently requires installing identification sleeves on the wires for the positive and negative terminal studs of the engine and/or auxiliary power unit (APU) fire extinguishing bottles, as applicable, and re-connecting the wires to the correct terminal studs. This proposed AD would retain the requirements of the existing AD; add airplanes to the applicability; and, for certain airplanes only, require a review of wiring changes made using the original issue of one service bulletin and corrective actions if necessary. This proposed AD results from a determination that additional airplanes are subject to the unsafe condition described in the existing AD. We are proposing this AD to ensure that the fire extinguishing bottles are activated in the event of an engine or APU fire, and that flammable fluids are not supplied during a fire, which could result in an unextinguished fire in the nacelle or APU.

**DATES:** We must receive comments on this proposed AD by April 2, 2007.

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

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277, for service information identified in this proposed AD.

**FOR FURTHER INFORMATION CONTACT:** Trenton Shepherd, Mechanical Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4143; fax (316) 946–4107.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''Docket No. 2007–27258; Directorate Identifier 2006–NM–213–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or visit *http://dms.dot.gov*.

### 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 DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

### Discussion

On February 7, 2006, we issued AD 2006–04–10, amendment 39–14491 (71 FR 8443, February 17, 2006), for certain Cessna Model 500, 550, S550, 560, 560XL, and 750 airplanes. That AD requires installing identification sleeves on the wires for the positive and negative terminal studs of the engine and/or auxiliary power unit (APU) fire extinguishing bottles, as applicable, and re-connecting the wires to the correct terminal studs. That AD resulted from a report of mis-wired fire extinguishing bottles. We issued that AD to ensure that the fire extinguishing bottles are activated in the event of an engine or APU fire, and that flammable fluids are not supplied during a fire, which could result in an unextinguished fire in the nacelle or APU.

### Actions Since Existing AD Was Issued

Since we issued AD 2006–04–10, we have determined that two affected airplane models, Models 501 and 551, were not included in the applicability of that AD. Model 501 and 551 airplanes could be subject to the same unsafe condition as other airplanes subject to AD 2006–04–10; therefore, we have added those airplanes to the applicability of this proposed AD.

We have also determined that, as written, Cessna Service Bulletin SB500–26–02, dated April 1, 2005, would not entirely correct the unsafe condition. Therefore, any actions done using the original issue of the service bulletin would not be considered acceptable for compliance with the requirements of

this proposed AD, unless the actions are confirmed to be in accordance with Revision 1 of the service bulletin, as described below.

**Relevant Service Information**

We have reviewed Cessna Service Bulletin SB500–26–02, Revision 1, dated July 7, 2005, including Service Bulletin Supplemental Data, dated April 1, 2005, which clarifies and corrects certain instructions and wiring references in the text and Figure 1 of the original issue of the service bulletin. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

**FAA's Determination and Requirements of the Proposed AD**

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other airplanes of the same type design. For this reason, we are proposing this AD, which would retain the requirements of AD 2006–04–10; add airplanes to the applicability; and, for certain airplanes only, require a review of wiring changes made using Cessna Service Bulletin SB500–26–02, dated April 1, 2005. This proposed AD would require accomplishing the actions described previously, except as discussed under ''Difference Between the Proposed AD and Service Bulletins.''

**Difference Between the Proposed AD and Service Bulletins**

Operators should note that, although the Accomplishment Instructions of the referenced service bulletins describe procedures for submitting a maintenance transaction report to the manufacturer, this proposed AD would not require that action.

**Costs of Compliance**

There are about 3,801 airplanes of the affected design in the worldwide fleet, including about 3,071 airplanes of U.S. Registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD, at an average labor rate of $80 per work hour.

ESTIMATED COSTS

| Cessna Model | Action | Work hours | Parts | Cost per airplane | Number of U.S.-registered airplanes | Fleet cost |
|---|---|---|---|---|---|---|
| 500, 550, S550, and 560 airplanes (action required by AD 2006–04–10). | Re-identify and re-connect wires. | 3 | $50 | $290 | 1,827 | $529,830 |
| 560XL airplanes (action required by AD 2006–04–10). | Re-identify and re-connect wires. | 4 | 100 | 420 | 331 | 139,020 |
| 750 airplanes (action required by AD 2006–04–10). | Re-identify and re-connect wires. | 2 | 25 | 185 | 211 | 39,035 |
| 501 and 551 airplanes (action required by this proposed AD). | Re-identify and re-connect wires. | 3 | 50 | 290 | 702 | 203,580 |
| 500 airplanes (action required by this proposed AD). | Verify wiring changes. | 1 | No parts required | 80 | 195 | 15,600 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14491 (71 FR 8443, February 17, 2006) and adding the following new airworthiness directive (AD):

**Cessna Aircraft Company:** Docket No. 2007–27258; Directorate Identifier 2006–NM–213–AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by April 2, 2007.

**Affected ADs**

(b) This AD supersedes AD 2006–04–10.

**Applicability**

(c) This AD applies to Cessna Model 500, 501, 550, 551, S550, 560, 560XL, and 750 airplanes, certificated in any category; as identified in the service bulletins specified in Table 1 of this AD.

TABLE 1.—CESSNA SERVICE BULLETINS

| Cessna Service Bulletin | Revision | Date | Cessna model |
|---|---|---|---|
| SB500–26–02 | 1 | July 7, 2005 | 500/501 airplanes. |
| SB500–26–02 | Original | April 1, 2005 | 500/501 airplanes. |
| SB550–26–05 | Original | April 1, 2005 | 550/551 airplanes. |
| SB560–26–01 | Original | April 1, 2005 | 560 airplanes. |
| SB560XL–26–02 | 1 | December 22, 2004 | 560XL airplanes. |
| SB750–26–05 | Original | November 24, 2004 | 750 airplanes. |
| SBS550–26–02 | Original | April 1, 2005 | S550 airplanes. |

**Unsafe Condition**

(d) This AD results from a report of mis-wired fire extinguishing bottles. We are issuing this AD to ensure that the fire extinguishing bottles are activated in the event of an engine or auxiliary power unit (APU) fire, and that flammable fluids are not supplied during a fire, which could result in an unextinguished fire in the nacelle or APU.

**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.

**Requirements of AD 2006–04–10**

**Installation**

(f) For Model 500, 550, S550, 560, 560XL, and 750 airplanes: Within 100 flight hours or 60 days after March 24, 2006 (the effective date of AD 2006–04–10), whichever occurs first, install identification sleeves on the wires for the positive and negative terminal studs of the applicable fire extinguishing bottles identified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD; re-connect the wires to the correct studs; test the connection; and re-connect the wires again as applicable until the connection tests correctly. Do all actions in accordance with the Accomplishment Instructions of the applicable service bulletin identified in Table 1 of this AD; except that, for Model 500 airplanes, Cessna Service Bulletin SB500–26–02, Revision 1, dated July 7, 2005 may be used. After the effective date of this AD, only Cessna Service Bulletin SB500–26–02, Revision 1, may be used to accomplish the requirements of this paragraph for Model 500 airplanes.

(1) For Cessna Model 500, 550, S550, and 560 airplanes: The engine fire extinguishing bottles.

(2) For Cessna Model 560XL airplanes: The engine and the APU fire extinguishing bottles.

(3) For Cessna Model 750 airplanes: The APU fire extinguishing bottle.

**Actions Accomplished in Accordance With Earlier Revision of Service Bulletin**

(g) For Model 560XL airplanes: Actions done before March 24, 2006, in accordance with the Accomplishment Instructions of Cessna Service Bulletin SB560XL–26–02, dated November 22, 2004, are acceptable for compliance with the corresponding actions in this AD.

**New Requirements of This AD**

**Actions for Additional Airplane Models**

(h) For Model 501 and 551 airplanes: Within 100 flight hours or 60 days after the effective date of this AD, whichever occurs first, do the actions required by paragraph (f) of this AD for the engine fire extinguishing bottles in accordance with Cessna Service Bulletin SB500–26–02, Revision 1, dated July 7, 2005, or Cessna Service Bulletin SB550–26–05, dated April 1, 2005; as applicable.

**Verification of Actions Accomplished Using Original Issue of Service Bulletin**

(i) For Model 500 airplanes on which the actions specified in Cessna Service Bulletin SB500–26–02, dated April 1, 2005, have been done before the effective date of this AD: Within 100 flight hours or 60 days after the effective date of this AD, whichever occurs first, verify that wiring changes previously done in accordance with Cessna Service Bulletin SB500–26–02, dated April 1, 2005, conform to the changes described in Cessna Service Bulletin SB500–26–02, Revision 1, dated July 7, 2005; and, if any non-conforming wiring changes are discovered, before further flight, correct the wiring changes as applicable to conform to the changes described in Cessna Service Bulletin SB500–26–02, Revision 1, dated July 7, 2005.

**No Reporting Requirement**

(j) Although the Accomplishment Instructions of the service bulletins identified in Table 1 of this AD describe procedures for submitting a maintenance transaction report to the manufacturer, this AD does not require that action.

**Parts Installation**

(k) At the applicable time specified in paragraph (k)(1) or (k)(2) of this AD, no person may install on any airplane a fire extinguishing bottle unless identification sleeves on the wires for the positive and negative terminal studs have been installed in accordance with paragraph (f) or (h) of this AD, as applicable.

(1) For Model 500, 550, S550, 560, 560XL, and 750 airplanes: After March 24, 2006.

(2) For Model 501 and 551 airplanes: After the effective date of this AD.

**Alternative Methods of Compliance (AMOCs)**

(l)(1) The Manager, Wichita 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.

Issued in Renton, Washington, on February 8, 2007.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E7–2628 Filed 2–14–07; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE INTERIOR

## National Indian Gaming Commission

## 25 CFR Parts 502 and 546

## Class II Definitions and Game Classification Standards; Withdrawal

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Notice of withdrawal of proposed regulations.

**SUMMARY:** The purpose of this document is to notify the public that the National Indian Gaming Commission is withdrawing the proposed regulations published in the **Federal Register** on May 25, 2006 (71 FR 30232, 71 FR 30238).

**FOR FURTHER INFORMATION CONTACT:** John Hay at 202/632–7003; fax 202/632–7066 (these are not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** Congress established the National Indian Gaming Commission (NIGC or Commission) under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2701 *et seq.*) (IGRA) to regulate gaming on Indian lands. On May 25, 2006, proposed Class II definitions and game classification standards were published in the **Federal Register** (71 FR 30232, 71 FR 30238). After receiving extensive comment, and

after many consultations with tribal governments and tribal regulators, the Commission anticipates significant revisions to any proposed rule. As such, the Commission has decided to withdraw the current proposed rule and may publish a new proposed rule at a later date.

Dated: February 9, 2007.

**Philip N. Hogen,**

*Chairman, National Indian Gaming Commission.*

[FR Doc. E7–2621 Filed 2–14–07; 8:45 am]

BILLING CODE 7565–01–P

## DEPARTMENT OF THE INTERIOR

## National Indian Gaming Commission

## 25 CFR Part 547

## Technical Standards for Electronic, Computer, or Other Technologic Aids Used in the Play of Class II Games; Withdrawal

**AGENCY:** National Indian Gaming Commission, Interior.

**ACTION:** Notice of withdrawal of proposed rule.

**SUMMARY:** This is to notify the public that the National Indian Gaming Commission is withdrawing the proposed rule published in the **Federal Register** on August 11, 2006. (71 FR 46335.)

**FOR FURTHER INFORMATION CONTACT:** Michael Gross at 202/632–7003; fax 202/632–7066 (these are not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** Congress established the National Indian Gaming Commission (Commission) under the Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2701 *et seq.*, to regulate gaming on Indian lands. On August 11, 2006, the Commission published a proposed rule, ''Technical Standards for Electronic, Computer, or other Technologic Aids Used in the Play of Class II Games.'' (71 FR 46335). After receiving extensive comment, and after many consultations with tribal governments and tribal regulators, the Commission anticipates significant revisions to any proposed rule. As such, the Commission has decided to withdraw the current proposed rule and may publish a new proposed rule at a later date.

Dated: February 9, 2007.

**Philip N. Hogen,**

*Chairman, National Indian Gaming Commission.*

[FR Doc. E7–2623 Filed 2–14–07; 8:45 am]

BILLING CODE 7565–01–P

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Parts 1, 20, 25, 31, 53, 54, and 56

**[REG–103038–05]**

**RIN 1545–BE24**

## AJCA Modifications to the Section 6011 Regulations

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of public hearing on proposed rulemaking relating to the disclosure of reportable transactions under section 6011.

**DATES:** The public hearing is being held on Tuesday, March 20, 2007, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the public hearing by March 6, 2007.

**ADDRESSES:** The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Mail outlines to CC:PA:LPD:PR (REG–103038–05), room 5205, Internal Revenue Service, POB 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–103038–05), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC or sent electronically via the Federal erulemaking Portal at *www.regulations.gov* (IRS–REG–103038–05).

**FOR FURTHER INFORMATION CONTACT:** Concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Kelly Banks at (202) 622–7180 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is the notice of proposed rulemaking (REG–103038–05) that was published in the **Federal Register** on Thursday, November 2, 2006 (71 FR 64488). The rules of 26 CFR 601.601(a)(3) apply to the hearing.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline has passed, persons who have submitted written comments and wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (a signed original and eight copies) by March 6, 2007.

The IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available free of charge at the hearing. Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

**LaNita Van Dyke,**

*Branch Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. E7–2590 Filed 2–14–07; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Parts, 20, 25, 31, 53, 54, and 56

**[REG–103039–05]**

**RIN 1545–BE26**

## AJCA Modifications to the Section 6111 Regulations

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of public hearing on proposed rulemaking relating to the disclosure of reportable transactions by material advisors under section 6111.

**DATES:** The public hearing is being held on Tuesday, March 20, 2007, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the public hearing by March 6, 2007.

**ADDRESSES:** The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Mail outlines to CC:PA:LPD:PR (REG–103039–05), room 5205, Internal Revenue Service, POB 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–103039–05), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC or sent electronically via the Federal erulemaking Portal at *www.regulations.gov* (IRS–REG–103039–05).

**FOR FURTHER INFORMATION CONTACT:** Concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Kelly Banks at (202) 622–7180 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is the notice of proposed rulemaking (REG–103039–05) that was published in the **Federal Register** on Thursday, November 2, 2006 (71 FR 64496). The notice also announced that a hearing will be scheduled if requested by the public in writing by January 31, 2007.

The rules of 26 CFR 601.601 apply to the hearing. A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline has passed, persons who have submitted written comments and wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (a signed original and eight copies) by March 6, 2007.

The IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available free of charge at the hearing. Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

**LaNita Van Dyke,**

*Branch Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. E7–2634 Filed 2–14–07; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 301

**[REG–103043–05]**

**RIN 1545–BE28**

### AJCA Modifications to the Section 6112 Regulations

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of public hearing on proposed rulemaking relating to the obligation of material advisors to prepare and maintain lists with respect to reportable transactions under section 6112.

**DATES:** The public hearing is being held on Tuesday, March 20, 2007, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the public hearing by March 6, 2007.

**ADDRESSES:** The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Mail outlines to CC:PA:LPD:PR (REG–103043–05), room 5205, Internal Revenue Service, POB 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–103043–05), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC or sent electronically via the Federal erulemaking Portal at *www.regulations.gov* (IRS–REG–103043–05).

**FOR FURTHER INFORMATION CONTACT:** Concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing, Kelly Banks at (202) 622–7180 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is the notice of proposed rulemaking (REG–103043–05) that was published in the **Federal Register** on Thursday, November 2, 2006 (71 FR 64501). The notice also announced that a hearing will be scheduled if requested by the public in writing by January 31, 2007.

The rules of 26 CFR 601.601 apply to the hearing. A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline has passed, persons who have submitted written comments and wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (a signed original and eight copies) by March 6, 2007.

The IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available free of charge, at the hearing. Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

**LaNita Van Dyke,**

*Branch Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. E7–2615 Filed 2–14–07; 8:45 am]

**BILLING CODE 4830–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R06–OAR–2006–0568; FRL–8278–3]**

### Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Albuquerque/Bernalillo County; Prevention of Significant Deterioration (PSD) and New Source Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve revisions to the State Implementation Plan (SIP) for the Albuquerque/Bernalillo County, New Mexico, area that were submitted to EPA by the Governor of New Mexico on May 24, 2006. The proposed revisions modify the Prevention of Significant Deterioration and Nonattainment New Source Review (NNSR) regulations in the SIP. They were submitted to make the area's PSD and NNSR rules consistent with Federal NNSR and PSD revised regulations, which were promulgated by EPA on December 31, 2002 (67 **Federal Register** (FR) 80186) and reconsidered with minor changes on November 7, 2003 (68 FR 63021) (collectively, these Federal actions are called the ''2002 New Source Review

(NSR) Reform Rules''). The revisions include provisions for baseline emissions calculations, an actual-to-projected-actual methodology for calculating emissions changes, options for plantwide applicability limits (PALs), and recordkeeping and reporting requirements. We are proposing to approve these revisions pursuant to section 110, part C, and part D of the Federal Clean Air Act (Act).

**DATES:** Comments must be received on or before *March 19, 2007.*

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R06–OAR–2006–0568, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *U.S. EPA Region 6 ''Contact Us'' Web site: http://epa.gov/region6/r6coment.htm.* Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.
- *E-mail:* Mr. Stanley M. Spruiell at *spruiell.stanley@epa.gov.*
- *Fax:* Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), at fax number (214) 665–7263.
- *Mail:* Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- *Hand or Courier Delivery:* Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID Number EPA–R06–OAR–2006–0568. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or e-mail if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD–ROM submitted. 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 and any form of encryption and should be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. A 15 cent per page fee will be charged for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area on the seventh floor at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Albuquerque Environmental Health Department, Air Pollution Control Division, One Civic Plaza, Albuquerque, New Mexico 87103.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7212; fax number (214) 665–7263; e-mail address *spruiell.stanley@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

Throughout this document, any reference to ''we,'' ''us,'' or ''our'' shall mean EPA.

**Outline:**



## I. What Action Is EPA Proposing?

On May 24, 2006, the Governor of the State of New Mexico submitted revisions to the SIP for Albuquerque/Bernalillo County. The submittal consists of revisions to two regulations that are already part of the Albuquerque/Bernalillo County SIP. The affected regulations are: 20.11.60 New Mexico Administrative Code (NMAC) (Permitting in Nonattainment Areas) and 20.11.61 NMAC (Prevention of Significant Deterioration). The revisions were made to update the Albuquerque/Bernalillo County Air Quality Control Board (AQCB) NNSR and PSD regulations to ensure that the regulations are consistent with changes to the Federal NSR regulations published on December 31, 2002 (67 FR 80186) and November 7, 2003 (68 FR 63021). These EPA rulemakings are collectively referred to as the ''2002 NSR Reform Rules.''

This SIP revision also includes other non-substantive changes to AQCB's PSD and NNSR rules needed to update the regulatory citations, make clarifying revisions to the regulatory text, correct typographical errors, and ensure that the regulations are consistent with all current Federal requirements for PSD and NNSR. These non-substantive changes do not change the regulatory requirements. Please see the Technical Support Document (TSD) for further information.

## II. What Is the Background for This Action?

On December 31, 2002, EPA published final rule changes to 40 Code of Federal Regulations (CFR) parts 51 and 52, regarding the Clean Air Act's PSD and NNSR programs. See 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. See 68 FR 63021. In the November 7th final action, EPA added the definition of ''replacement unit,'' and clarified issues regarding PALs. The purpose of today's

action is to propose approval of the State's SIP submittal for Albuquerque/Bernalillo County that includes revisions to the NNSR and PSD SIP rules.

The 2002 NSR Reform Rules are part of EPA's implementation of parts C and D of Title I of the Act, 42 U.S.C. 7470–7515, addressing major sources and major modifications. Part C of Title I of the Act, 42 U.S.C. 7470–7492, is the PSD program, which applies in areas that meet the National Ambient Air Quality Standards (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 Act, 42 U.S.C. 7501–7515, is the NNSR program, which applies in areas that are not in attainment of one or more of the NAAQS—''nonattainment areas.'' There also is the section 110 requirement for a minor NSR preconstruction permit program SIP. EPA regulations implementing the NNSR and PSD programs are contained in 40 CFR 51.165, 51.166, 52.21, 52.24, and appendix S of part 51.

The Act's NSR programs are preconstruction review and permitting programs applicable to new and modified stationary sources of air pollutants regulated under the Act. These programs include a combination of air quality planning and air pollution control technology program requirements. Briefly, section 109 of the Act, 42 U.S.C. 7409, requires EPA to promulgate primary NAAQS to protect public health and secondary NAAQS to protect public welfare. Once EPA sets those standards, each State must develop, adopt, and submit to EPA for approval, a SIP that contains emissions limitations and other control measures to attain and maintain the NAAQS. Each SIP is required to contain a preconstruction review program for the construction and modification of stationary sources of air pollution to assure that the NAAQS are achieved and maintained; to protect areas of clean air; to protect air quality related values (such as visibility) in national parks and other areas; to assure that appropriate emissions controls are applied; to maximize opportunities for economic development consistent with the preservation of clean air resources; and to ensure that any decision to increase air pollution is made only after full public consideration of the consequences of the decision.

The 2002 NSR Reform Rules made changes to five areas of the NSR programs. In summary, these rules: (1) Provide a new method for determining baseline actual emissions in the NNSR and PSD programs; (2) adopt for the NNSR and PSD programs an actual-to-projected-actual methodology for determining whether a major modification has occurred; (3) allow major stationary sources to comply with PALs to avoid having a significant emissions increase that triggers the requirements of the NNSR and PSD programs; (4) provide a new applicability provision in the NNSR and PSD programs for emissions units that are designated clean units; and (5) exclude pollution control projects from the NNSR and PSD program definitions of ''physical change or change in the method of operation.'' For additional information on the 2002 NSR Reform Rules, see 67 FR 80186 (December 31, 2002) and *http://www.epa.gov/nsr.*

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 D.C. Circuit Court of Appeals issued a decision on the challenges to the 2002 NSR Reform Rules. See *New York* v. *United States*, 413 F.3d 3 (D.C. Cir. 2005) *rehearing en banc denied* (December 9, 2005). In summary, the Court vacated portions of the Rules pertaining to clean units and pollution control projects; remanded a portion of the Rules regarding recordkeeping, e.g., 40 CFR 51.165(a)(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. The EPA has not yet responded to the Court's remand regarding the recordkeeping provisions. Today's action is consistent with the decision of the D.C. Circuit Court of Appeals because Albuquerque's submittal does not include any portions of the 2002 NSR Reform Rules that were vacated as part of the June 2005 decision.

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. See 40 CFR 51.166(a)(6)(i) (requiring State agencies to adopt and submit PSD SIP revisions within three years after new amendments are published in the **Federal Register**). State agencies may meet the requirements of 40 CFR Part 51 and the 2002 NSR Reform Rules with regulations that are different than but equivalent to the Federal regulations. If, however, a State decides not to implement any of the new applicability provisions, that State must demonstrate that its existing program is at least as stringent as the Federal program.

On May 24, 2006, the Governor of New Mexico submitted a SIP revision for the purpose of revising AQCB's NNSR and PSD permitting regulations. These changes were made primarily to adopt EPA's 2002 NSR Reform Rules. As discussed in further detail below, EPA believes the revisions contained in the submittal are approvable for inclusion into the SIP for Albuquerque/Bernalillo County.

## III. What Is EPA's Analysis of the Albuquerque NSR Rule Revisions?

The AQCB currently has an EPA-approved NSR program for new and modified sources, including a minor NSR preconstruction permit program, an NNSR preconstruction permit program, and a PSD preconstruction permit program. Today, EPA is proposing to approve revisions to the AQCB's existing NNSR and PSD regulations in the SIP. These proposed revisions were submitted to EPA on May 24, 2006. Copies of the revised rules, as well as the TSD, can be obtained from the Docket, as discussed in the ''Docket'' section above. A discussion of the specific AQCB rule changes that are proposed for inclusion in the SIP is included in the TSD and summarized below.

The AQCB's permitting requirements for major sources in or impacting upon non-attainment areas are set forth at 20.11.60 NMAC (Permitting in Nonattainment Areas). The current AQCB NNSR program applies to the construction of any new major stationary source or major modification of air pollution in a nonattainment area, as required by part D of Title I of the Act. To receive approval to construct, a source that is subject to this regulation must show that it will not cause a net increase in pollution or create a delay in meeting the NAAQS, and that it will install and use control technology that achieves the lowest achievable emission rate.

The AQCB's regulation 20.11.61 NMAC (Prevention of Significant Deterioration) contains the preconstruction review program that provides for the prevention of significant deterioration of ambient air quality as required under part C of Title I of the Act. The program applies to major stationary sources or modifications constructed or installed in areas designated as attainment or unclassifiable with respect to the NAAQS.

These revisions to 20.11.60 NMAC and 20.11.61 NMAC update the existing provisions to be consistent with the current Federal NNSR and PSD rules, including the effects of the 2002 NSR Reform Rules. These revisions address baseline actual emissions, actual-to-projected-actual applicability tests, and PALs. The revisions included in AQCB's NNSR and PSD programs are substantively the same as the 2002 NSR Reform Rules. As part of our review of AQCB's regulations, we performed a line-by-line review of the proposed revisions and have determined that they are consistent with the program requirements for the preparation, adoption and submittal of implementation plans for NSR set forth at 40 CFR 51.165 and 51.166. This review is contained in the TSD for this action. The AQCB rules that we are reviewing do not incorporate the portions of the Federal rules that were vacated by the D.C. Circuit Court of Appeals, such as the clean unit provisions and the pollution control projects exclusion.

The revised AQCB rules include the recordkeeping provisions set forth in the Federal rules at 40 CFR 51.165(a)(6) and 51.166(r)(6). However, AQCB chose to exclude the phrase ''reasonable possibility.'' In the Federal rule, this phrase limits the recordkeeping provisions to modifications at facilities that use the actual-to-future-actual methodology to calculate emissions changes, where there is a ''reasonable possibility'' that the modifications will result in a significant emissions increase. Therefore, by leaving out the phrase ''reasonable possibility'' from Subsection F of 20.11.60.12 NMAC and Subsection E of 20.11.61.12 NMAC, the AQCB rules require all modifications that use the actual-to-future-actual methodology to meet the recordkeeping requirements. As noted earlier, EPA has not yet responded to the D.C. Circuit Court of Appeals remand of the recordkeeping provisions of EPA's 2002 NSR Reform Rules. As a result, EPA's final decision with regard to the remand may require EPA to take further action on this portion of AQCB's rules. At present, however, AQCB's recordkeeping provisions are at least as stringent as the Federal requirements, and are therefore approvable.

## IV. Does Approval of the NNSR and PSD Revised Rules Interfere With Attainment, Reasonable Further Progress, or Any Other Applicable Requirement of the Act?

The Act provides in Section 110(l) that:

> Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revisions would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act.

Because, as discussed above and in the TSD, the revisions to the AQCB NNSR and PSD programs are substantively the same as the 2002 NSR Reform Rules, without including any vacated provisions, we conclude that these rules do not interfere with attainment, reasonable further progress, or any other applicable requirement of the Act. See 67 FR 80186 and 68 FR 63021 for EPA's detailed explanation of the legal basis for the 2002 NSR Reform Rules.

## V. What Action Is EPA Taking Today?

For the reasons discussed above, EPA is proposing to approve the changes made in the two rules, 20.11.60 NMAC (Permitting in Nonattainment Areas) and 20.11.61 NMAC (Prevention of Significant Deterioration) as submitted May 24, 2006, as revisions to the Albuquerque/Bernalillo County SIP.

## VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on: One or more Indian tribes, the relationship between the Federal Government and Indian tribes, or 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, the relationship between the national government and the States, or 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 standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. The EPA interprets Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern health or safety risks such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it would approve a state program. Executive Order 12898 (59 FR 7629 (February 16, 1994)) establishes federal executive policy on environmental justice. Because this rule merely proposes to approve a state rule implementing a Federal standard, EPA lacks the discretionary authority to modify today's regulatory decision on the basis of environmental justice considerations.

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

Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: February 5, 2007.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. E7–2671 Filed 2–14–07; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HOMELAND SECURITY

## Federal Emergency Management Agency

## 44 CFR Part 67

**[Docket No. FEMA–B–7707]**

## 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 | |
| **Spartanburg County, South Carolina, and Incorporated Areas** | | | | |
| Abners Creek | Confluence with Enoree River | None | +704 | Spartanburg County (Unincorporated Areas) City of Greer. |
| | Approximately 150 feet upstream of Freeman Farm Road. | None | +870 | |
| Alexander Creek | Confluence with South Pacolet River (William C. Bowen Lake). | None | +825 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,010 feet upstream of Page Road. | None | +844 | |
| Alexander Creek Tributary 1 | Confluence with Alexander Creek | None | +838 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1,620 feet upstream of Walnut Hill Church Road. | None | +855 | |
| Beaverdam Creek (East) | Just upstream of Old Canaan Road | None | +619 | Spartanburg 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 | |
| | Approximately 300 feet upstream of Church Street. | None | +677 | |
| Beaverdam Creek (East) Tributary 1 | Confluence with Beaverdam Creek (East). | None | +637 | Spartanburg County (Unincorporated Areas). |
| | Approximately 400 feet upstream of Church Street. | None | +676 | |
| Beaverdam Creek (West) | Confluence with Middle Tyger River | None | +817 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2 miles upstream of Highway 357. | None | +834 | |
| Big Ferguson Creek | Approximately 820 feet upstream of confluence with Ferguson Creek. | *575 | +576 | Spartanburg County (Unincorporated Areas). |
| | Approximately 5,190 feet upstream of Wofford Road. | None | +662 | |
| Browns Branch | Confluence with Pacolet River | None | +481 | Spartanburg County (Unincorporated Areas). |
| | Approximately 960 feet upstream of Short Drive. | None | +496 | |
| Buck Creek | Confluence with Pacolet River | None | +709 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,950 feet upstream of Cherokee Foothills Scenic Highway. | None | +808 | |
| Buffalo Creek | Approximately 100 feet upstream of confluence with Fairforest Creek. | None | +574 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.2 miles upstream of Steward Road. | None | +618 | |
| Casey Creek | Confluence with Pacolet River | None | +709 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,290 feet upstream of Overcreek Road. | None | +824 | |
| Cedar Shoals Creek | Approximately 620 feet downstream of Horseshoe Falls Road. | None | +406 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.5 miles upstream of Browning Road. | None | +539 | |
| Cherokee Creek | Approximately 70 feet downstream of Cherokee Circle. | None | +713 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1,040 feet upstream of Cherokee Circle. | None | +713 | |
| Chinquepin Creek | Approximately 100 feet upstream of Chesnee Highway. | None | +719 | Spartanburg County (Unincorporated Areas). |
| | Approximately 920 feet upstream of Chesnee Highway. | None | +726 | |
| Dildine Creek | Confluence with Enoree River | None | +560 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,580 feet upstream of confluence with Enoree River. | None | +563 | |
| Dillard Creek | Confluence with Enoree River | None | +708 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,540 feet upstream of confluence with Enoree River. | None | +715 | |
| Dutchman Creek | Approximately 1 mile downstream of Tucker Road. | None | +481 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,370 feet upstream of Walnut Grove Pauline Road. | None | +645 | |
| Enoree River | Approximately 4.3 miles downstream of Interstate 26. | None | +401 | Spartanburg County (Unincorporated Areas). |
| | Approximately 125 feet upstream of State Highway 14. | None | +748 | |
| Enoree River Tributary 1 | Confluence with Enoree River | None | +698 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1,690 feet upstream of Sharon Church Road. | None | +790 | |
| Fairforest Creek | Approximately 80 feet downstream of Glen Springs Road. | None | +491 | Spartanburg County (Unincorporated Areas) City of Spartanburg. |
| | Approximately 100 feet downstream of Interstate 85. | None | +844 | |

| Flooding source(s) | Location of referenced elevation | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Fairforest Creek: | | | | |
| Tributary 1 | Confluence with Fairforest Creek | None | +497 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.3 miles upstream of confluence with Fairforest Creek. | None | +525 | |
| Tributary 2 | Approximately 50 feet upstream of Fairforest Creek. | None | +574 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1,320 feet upstream of West Road. | None | +656 | |
| Tributary 3 | Approximately 300 feet upstream of confluence with Fairforest Creek. | None | +614 | Spartanburg County (Unincorporated Areas). |
| | Approximately 3,630 feet upstream of confluence with Fairforest Creek. | None | +631 | |
| Fawn Branch | Just upstream of Old Furnace Road | None | +807 | Spartanburg County (Unincorporated Areas). |
| | Approximately 870 feet upstream of Old Furnace Road. | None | +810 | |
| Fawn Branch: | | | | |
| Tributary 1 | Just upstream of Old Furnace Road | None | +807 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,640 feet upstream of Clark Road. | None | +883 | |
| Tributary 2 | Confluence with Fawn Branch Tributary 1. | None | +826 | Spartanburg County (Unincorporated Areas). |
| | Approximately 440 feet upstream of State Highway 9. | None | +873 | |
| Ferguson Creek | Approximately 190 feet downstream of Old Spartanburg Highway. | None | +627 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1,990 feet upstream of Old Spartanburg Highway. | None | +638 | |
| Fleming Branch | Confluence with Fairforest Creek | None | +566 | Unincorporated Areas of Spartanburg County. |
| | Approximately 2,200 feet upstream of confluence with Fairforest Creek. | None | +576 | |
| Foster Creek | Approximately 330 feet upstream of Twin Oaks Road. | None | +607 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.4 miles upstream of Old Canaan Road. | None | +659 | |
| Foster Creek Tributary 1 | Confluence with Foster Creek | None | +636 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,000 feet upstream of confluence with Foster Creek. | None | +748 | |
| Fourmile Branch | Just upstream of Country Club Rd | *631 | +632 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,810 feet upstream of Pine Street. | None | +734 | |
| Halfway Branch | Approximately 600 feet upstream of confluence of Halfway Branch Tributary 1. | None | +680 | City of Spartanburg. |
| | Approximately 2,150 feet upstream of confluence with Halfway Branch Tributary 1. | None | +708 | |
| Halfway Branch Tributary 1 | Just downstream of Blackwood Drive. | None | +686 | Spartanburg County (Unincorporated Areas) City of Spartanburg. |
| | Approximately 700 feet upstream of Perin Drive. | None | +722 | |
| Island Creek | Confluence with Pacolet River | None | +655 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,000 feet upstream of Cemetery Road. | None | +804 | |
| Jamison Mill Creek | Confluence with South Pacolet River | None | +878 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.4 miles upstream of Spivey Creek Road. | None | +920 | |

| Flooding source(s) | Location of referenced elevation | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Jimmies Creek (North) | Just upstream of Freys Drive | None | +665 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,190 feet upstream of Tucapau Road. | None | +789 | |
| Jimmies Creek (South) | Confluence with North Tyger River | None | +440 | Spartanburg County (Unincorporated Areas) Town of Woodruff. |
| | Approximately 1,550 feet upstream of Georgia Road. | None | +696 | |
| Jimmies Creek (South) Tributary 1 | Confluence with Jimmies Creek (South). | None | +444 | Spartanburg County (Unincorporated Areas). |
| | Approximately 5,070 feet upstream of confluence with Jimmies Creek (South). | None | +470 | |
| Kelsey Creek | Confluence with Fairforest Creek | None | +524 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,900 feet upstream of confluence with Thompson Creek. | None | +555 | |
| Lawsons Fork Creek | Just upstream of Meadow Farm Road. | None | +802 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,320 feet upstream of Park Street. | None | +937 | |
| Lawsons Fork Creek: | | | | |
| Tributary 1 | Approximately 850 feet upstream of confluence with Lawsons Fork Creek. | None | +656 | City of Spartanburg. |
| | Approximately 3,890 feet upstream of Woodburn Road. | None | +701 | |
| Tributary 3 | Approximately 900 feet upstream of Lawsons Fork Creek. | *778 | +779 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,120 feet upstream of Honeysuckle Road. | None | +828 | |
| Tributary 4 | Just upstream of River Forest Rd | None | +787 | Spartanburg County (Unincorporated Areas). |
| | Approximately 400 feet upstream of Lyman Road. | None | +864 | |
| Lick Creek | Confluence with Enoree River | None | +567 | Spartanburg County (Unincorporated Areas). |
| | Approximately 425 feet upstream of Allen Bridge Road. | None | +581 | |
| Little Buck Creek | Confluence with Buck Creek | None | +712 | Spartanburg County (Unincorporated Areas). |
| | Approximately 280 feet upstream of Cherokee Street. | None | +841 | |
| Maple Creek | Just upstream of New Woodruff Road. | None | +854 | Spartanburg County (Unincorporated Areas) City of Greer. |
| | Approximately 85 feet downstream of Acron Drive. | None | +866 | |
| McElwain Creek | Approximately 3,266 feet downstream of Yard Road. | None | +495 | Spartanburg County (Unincorporated Areas). |
| | Approximately 230 feet upstream of Yard Road. | None | +499 | |
| Meadow Creek | Approximately 500 feet upstream of confluence with Lawson's Fork Creek. | *802 | +803 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1,360 feet upstream of Interstate 26. | None | +849 | |
| Meadow Creek Tributary 1 | Confluence with Meadow Creek | None | +823 | Spartanburg County (Unincorporated Areas). |
| | Approximately 3,380 feet upstream of Spring Valley Road. | None | +837 | |
| Middle Tyger River | Just upstream of Spartex Dam | None | +733 | Spartanburg County (Unincorporated Areas) Town of Duncan, Town of Lyman. |
| | Approximately 250 feet upstream of Sloan Road. | None | +859 | |

| Flooding source(s) | Location of referenced elevation | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. | | Communities affected |
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| | | Effective | Modified | |
| Middle Tyger River Tributary 1 | Approximately 1,800 feet upstream of confluence with Middle Tyger River. | *615 | +616 | Spartanburg County (Unincorporated Areas). |
| | Approximately 5,040 feet upstream of confluence with Middle Tyger River. | None | +629 | |
| Motlow Creek | Confluence with South Pacolet River | None | +826 | Spartanburg County (Unincorporated Areas) Town of Campobello. |
| | Approximately 740 feet upstream of Macedonia Church Road. | None | +943 | |
| North Pacolet River | Confluence with Pacolet River | None | +723 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,030 feet upstream of Landrum Road. | None | +837 | |
| North Tyger River | Approximately 3,340 feet downstream of Highway 56. | None | +421 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2.2 miles upstream of Interstate 26. | None | +583 | |
| North Tyger River: | | | | |
| Tributary 1 | Just downstream of Interstate 26 | None | +594 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.4 miles upstream of Stillhouse Road. | None | +672 | |
| Tributary 2 | Approximately 1,780 feet upstream of confluence with North Tyger River. | *665 | +666 | Spartanburg County (Unincorporated Areas). |
| | Approximately 260 feet upstream of U.S. Highway 29. | None | +748 | |
| Tributary 3 | Approximately 900 feet upstream of confluence with North Tyger River. | None | +736 | Spartanburg County (Unincorporated Areas) Town of Lyman. |
| | Approximately 1.6 miles upstream of Holly Springs Road. | None | +898 | |
| Obed Creek | Confluence with North Pacolet River | None | +737 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,100 feet upstream of Burnt Chimney Road. | None | +879 | |
| Pacolet River | Approximately 2.4 miles downstream of Chapel Drive. | None | +476 | Spartanburg County (Unincorporated Areas) Town of Pacolet. |
| | Confluence of North Pacolet River and South Pacolet River. | None | +723 | |
| Pacolet River: | | | | |
| Tributary 1 | Confluence with Pacolet River | None | +632 | Spartanburg County (Unincorporated Areas). |
| | Approximately 290 feet upstream of Church Street. | None | +765 | |
| Tributary 2 | Confluence with Pacolet River | None | +716 | Spartanburg County (Unincorporated Areas). |
| | Approximately 5,140 feet upstream of Fairfield Road. | None | +875 | |
| Peters Creek | Confluence with Pacolet River | None | +630 | Spartanburg County (Unincorporated Areas). |
| | Approximately 210 feet downstream of Jones Road. | None | +796 | |
| Ransom Creek | Approximately 1,120 feet upstream of confluence with North Tyger River. | *610 | +611 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1,050 feet upstream of Schirra Court. | None | +732 | |
| Ransom Creek Tributary 1 | Confluence with Ransom Creek | None | +614 | Spartanburg County (Unincorporated Areas). |
| | Approximately 460 feet upstream of Interstate 26. | None | +640 | |
| Reedy Creek | Approximately 100 feet downstream of Old Canaan Road. | None | +624 | Spartanburg County (Unincorporated Areas). |
| | Approximately 230 feet upstream of McAbee Road. | None | +667 | |

| Flooding source(s) | Location of referenced elevation | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Richland Creek | Confluence with South Pacolet River | None | +785 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.3 miles upstream of Hickory Nut Drive. | None | +832 | |
| Richland Creek East | Confluence with Pacolet River | None | +539 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,970 feet upstream of confluence with Pacolet River. | None | +540 | |
| Richland Creek: | | | | |
| Tributary 1 | Confluence with Richland Creek | None | +785 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,740 feet upstream of River Oak Road. | None | +825 | |
| Tributary 2 | Confluence with Richland Creek Tributary 1. | None | +792 | Spartanburg County (Unincorporated Areas). |
| | Approximately 3,860 feet upstream of confluence with Richland Creek Tributary 1. | None | +810 | |
| Tributary 3 | Confluence with Richland Creek | None | +785 | Spartanburg County (Unincorporated Areas). |
| | Approximately 570 feet upstream of Owens Drive. | None | +855 | |
| Shoally Creek | Approximately 60 feet downstream of confluence with Shoally Creek Tributary 2. | None | +804 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,580 feet upstream of Old Furnace Road. | None | +915 | |
| Shoally Creek: | | | | |
| Tributary 1 | Approximately 300 feet upstream of confluence with Shoally Creek. | None | +752 | Spartanburg County (Unincorporated Areas). |
| | Approximately 250 feet upstream of Sandifer Road. | None | +796 | |
| Tributary 2 | Just upstream of confluence with Shoally Creek. | None | +804 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1,730 feet upstream of Burnett Road. | None | +875 | |
| Tributary 3 | Confluence with Shoally Creek | None | +804 | Spartanburg County (Unincorporated Areas). |
| | Approximately 150 feet upstream of McMillin Boulevard. | None | +850 | |
| South Pacolet River Tributary 2 | Confluence with South Pacolet River Tributary 1. | None | +832 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,410 feet upstream of confluence with South Pacolet River Tributary 1. | None | +861 | |
| South Pacolet River | Confluence with Pacolet River | None | +723 | Spartanburg County (Unincorporated Areas) Town of Campobello. |
| | Confluence of Jamison Mill Creek | None | +878 | |
| South Pacolet River Tributary 1 | Confluence with South Pacolet River | None | +825 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,230 feet upstream of Old Mill Road. | None | +844 | |
| South Tyger River | Confluence with North Tyger River | None | +518 | Spartanburg County (Unincorporated Areas). City of Greer, Town of Duncan. |
| | Approximately 1.9 miles upstream of Wade Hampton Boulevard. | None | +771 | |
| South Tyger River Tributary 1 | Confluence with South Tyger River | None | +604 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,340 feet upstream of confluence with South Tyger River. | None | +612 | |
| Spivey Creek | Confluence with South Pacolet River | None | +857 | Spartanburg County (Unincorporated Areas). |
| | Approximately 140 feet upstream of Spivey Creek Road. | None | +876 | |

| Flooding source(s) | Location of referenced elevation | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Thompson Creek (North) | Confluence with Pacolet River | None | +714 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.1 miles upstream of Peachtree Road. | None | +796 | |
| Thompson Creek (South) | Confluence with Kelsey Creek | None | +554 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.1 miles upstream of Johnson Lake Road. | None | +648 | |
| Turkey Hen Branch | Confluence with Pacolet River | None | +565 | Spartanburg County (Unincorporated Areas). |
| | Approximately 630 feet upstream of Harper Fish Camp Road. | None | +646 | |
| Twomile Creek | Confluence with Enoree River | None | +485 | Spartanburg County (Unincorporated Areas). |
| | Approximately 3,990 feet upstream of Parker Road. | None | +513 | |
| Vines Creek | Confluence with Abners Creek | None | +717 | Spartanburg County (Unincorporated Areas). |
| | Approximately 1.2 miles upstream of Babe Wood Road. | None | +776 | |
| Wards Creek | Confluence with North Tyger River | None | +554 | Spartanburg County (Unincorporated Areas). |
| | Approximately 3,450 feet upstream of Harrison Grove Road. | None | +616 | |
| Wiley Fork Creek | Confluence with Dutchman Creek | None | +532 | Spartanburg County (Unincorporated Areas). |
| | Approximately 2,390 feet upstream of confluence with Dutchman Creek. | None | +537 | |
| Zekial Creek | Confluence with Island Creek | None | +804 | Spartanburg County (Unincorporated Areas). |
| | Approximately 4,530 feet upstream of confluence with Island Creek. | None | +815 | |

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

## ADDRESSES

**City of Greer**
Maps are available for inspection at 106 South Main Street, Greer, SC 29650.
Send comments to Ed Driggers, City Administrator, 106 South Main Street, Greer, SC 29650.

**City of Spartanburg**
Maps are available for inspection at 145 West Broad Street, Spartanburg, SC 29304.
Send comments to Mark Scott, City Manager, P.O. Box 1749, 145 West Broad Street, Spartanburg, SC 29304.

**Town of Campobello**
Maps are available for inspection at 208 North Main Street, Campobello, SC 29322.
Send comments to The Honorable Ray Copeland, Mayor, City of Campobello, P.O. Box 8, 208 North Main Street, Campobello, SC 29322.

**Town of Duncan**
Maps are available for inspection at 153 West Main Street, Duncan, SC 29334.
Send comments to The Honorable John Hamby, Mayor, Town of Duncan, Post Office Drawer 188, 153 West Main Street, Duncan, SC 29334.

**Town of Lyman**
Maps are available for inspection at 81 Groce Road, Lyman, SC 29365.
Send comments to The Honorable Robert Fogel, Mayor, Town of Lyman, 81 Groce Road, Lyman, SC 29365.

**Town of Pacolet**
Maps are available for inspection at 180 Montgomery Avenue, Pacolet, SC 29372.
Send comments to The Honorable Elaine Harris, Mayor, Town of Pacolet, P.O. Box 700, 180 Montgomery Avenue, Pacolet, SC 29372.

**Town of Woodruff**
Maps are available for inspection at 231 E. Hayne Street, Woodruff, SC 29388.
Send comments to Scott Slatton, City Manager, 231 E. Hayne Street, Woodruff, SC 29388.

**Spartanburg County (Unincorporated Areas)**
Maps are available for inspection at 9039 Fairforest Road, Spartanburg, SC 29301.
Send comments to Glen Breed, County Administrator, 366 N. Church Street, P.O. Box 5666, Spartanburg, SC 29304.

| Flooding source(s) | Location of referenced elevation | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| **La Crosse County, Wisconsin and Incorporated Areas** | | | | |
| Black River | At confluence with the Black River, Mississippi River and La Crosse River. | *645 | *644 | City of Onalaska, City of La Crosse, La Crosse County (Unincorporated Areas). |
| | Just upstream of Lock & Dam 7 | *647 | *646 | |
| Ebner Coulee | 100 feet south of Jackson St. | *660 | *658 | City of La Crosse, La Crosse County (Unincorporated Areas). |
| | Just east of 29th St. | *670 | *667 | |
| Ebner Coulee: | | | | |
| Pond 1 | Just east of 29th St | *662 | *663 | City of La Crosse. |
| | At Burlington Northern Railroad | *662 | *663 | |
| Pond 2 | At State Road | *657 | *656 | City of La Crosse. |
| | At Farnam Street | *659 | *656 | |
| Pond 3 | At State Road | *657 | *655 | City of La Crosse. |
| | At 200 feet north of Crestline Place | *658 | *655 | |
| Pond 4 | 500 feet south of Evergreen St | *657 | *652 | City of La Crosse. |
| | 150 feet north of Evergreen St | *657 | *652 | |
| Pond 5 | At Ward Avenue | *656 | *652 | City of La Crosse. |
| | At Travis Street | *657 | *653 | |
| Pond 6 | 600 feet south of East Fairchild Street. | *656 | *654 | City of La Crosse. |
| | 600 feet north of West Fairchild Street. | *657 | *654 | |
| Pond 7 | At Farnam Street | *659 | *658 | City of La Crosse. |
| | At Jackson Street | *660 | *658 | |
| Johns Coulee | At mouth at Mormon Creek | None | *725 | La Crosse County (Unincorporated Areas). |
| | Approximately 1 mile upstream of County Highway YY bridge. | None | *827 | |
| La Crosse River | Approximately 600 feet upstream of Highway 53. | *645 | *644 | City of Onalaska, City of La Crosse, La Crosse County (Unincorporated Areas). |
| | Overbank area between Goheres St. to the north and Monitor St. to the south. | *646 | *645 | |
| | At State Highway 16 | *656 | *655 | |
| La Crosse River Left Overbank | Southern extent near La Crosse St. | *645 | *644 | City of La Crosse. |
| | At Lang Drive | *646 | *645 | |
| La Crosse River Right Overbank 1 | Railroad just north of County Highway B. | *648 | *649 | City of La Crosse. |
| | At Hawkins Road | *652 | *653 | |
| La Crosse River Railroad Ditch | At mouth at confluence with La Crosse River. | None | *650 | City of La Crosse. |
| | Upstream extent at divergence at La Crosse River. | None | *655 | |
| Mormon Creek | At mouth at Mississippi River | None | *639 | La Crosse County (Unincorporated Areas). |
| | At County Highway M | None | *766 | |
| Mississippi River | Adjacent to Marion Road N at river mile 694. | *641 | *640 | City of La Crosse, City of Onalaska, La Crosse County (Unincorporated Areas). |
| | Approximately 3.6 miles south of Highway 35 at river mile 711. | *650 | *649 | |
| Pammel Creek | At mouth at Mississippi River | *642 | *640 | City of La Crosse, La Crosse County (Unincorporated Areas). |
| | 150 feet upstream of Hagen Road | *691 | *683 | |
| Pammel Creek East Bank | At Juniper Street | *645 | *644 | City of La Crosse, La Crosse County (Unincorporated Areas). |
| | At Leonard Street | *650 | *644 | |
| | At Meadow Lane Place | *651 | *647 | |
| | Adjacent to Easter Road | *653 | *647 | |
| | At Park Lane Drive | *654 | *653 | |
| | At Midway between Park Lane Drive & Ward Avenue. | *658 | *653 | |
| Sand Lake Coulee | 200 feet downstream of County Highway OT. | None | *650 | Village of Holmen, City of Onalaska, La Crosse County (Unincorporated Areas). |

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|---|---|---|---|---|
| | | Effective | Modified | |
| | At Private driveway ¼ mile north of Abnet Rd. | None | *770 | |
| Sand Lake Coulee Right Overbank—Midway. | At mouth at confluence with Sand Lake Coulee. | None | *652 | Village of Holmen, La Crosse County (Unincorporated Areas). |
| | Approximately 1200 feet downstream of State Highway 35. | None | *663 | |
| Sand Lake Coulee | At County Highway SN | None | *701 | Village of Holmen, City of Onalaska, La Crosse County (Unincorporated Areas). |
| Right Overbank—Golf Course | Golf Course boundary 0.5 mi. downstream of Moos Rd. | None | *721 | |
| Smith Valley Creek | At mouth at La Crosse River | None | *658 | City of Onalaska, City of La Crosse, La Crosse County (Unincorporated Areas). |
| | End of Smith Valley Road | None | *814 | |
| State Road Coulee | 150 feet upstream of Hagen Rd | *691 | *683 | La Crosse County (Unincorporated Areas). |
| | 600 feet upstream of Hagen Rd | *692 | *687 | |

*National Geodetic Vertical Datum.
#Depth in feet above ground.
+North American Vertical Datum.

**ADDRESSES**

**La Crosse County (Unincorporated Areas)**

Maps are available for inspection at: La Crosse County Zoning, Planning and Land Information Office, 400 4th, St. N., La Crosse, WI 54601.
Send comments to: Jeff Bluske, Director of Zoning, Planning and Land Information, 400 4th St. N., La Crosse, WI 54601.

**Village of Holmen**

Maps are available for inspection at: Village Hall, 421 S. Main St., Holmen, WI 54636–0158.
Send comments to: Catherine J. Schmit, Village Administrator, P.O. Box 158, Holmen, WI 54636–0158.

**City of La Crosse**

Maps are available for inspection at: City Hall, 400 La Crosse St., La Crosse, WI 54601.
Send comments to: Randy Turtenwald, City Engineer, 400 La Crosse St., La Crosse, WI 54601.

**City of Onalaska**

Maps are available for inspection at: City Hall, 415 Main St., Onalaska, WI 54650.
Send comments to: Jason Gilman, Planning Director, 415 Main St., Onalaska, WI 54650.

**Milwaukee County, Wisconsin, and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Caledonia Branch | Confluence with Crayfish Creek | None | *666 | City of Oak Creek. |
| | Downstream side of County Line Road. | None | *672 | |
| Caledonia Branch: | | | | |
| Tributary CB1 | Confluence with Caledonia Branch | None | *667 | City of Oak Creek. |
| | Approximately 0.6 miles upstream of Elm Road. | None | *687 | |
| Tributary CB2 | Confluence with Caledonia Branch | None | *670 | City of Oak Creek. |
| | Upstream side of 10th Avenue | None | *672 | |
| Tributary CB3 | Upstream side of County Line Road | None | *676 | City of Oak Creek. |
| | Approximately 160 feet upstream of State Highway 32. | None | *688 | |
| Crayfish Creek | Upstream side of County Line Road | None | *666 | City of Oak Creek. |
| | Downstream side of Oakwood Road | None | *668 | |
| Crayfish Creek: | | | | |
| Tributary C1 | Confluence with West Branch Crayfish Creek. | None | *668 | City of Oak Creek. |
| | Approximately 800 feet upstream of Shepard Avenue. | None | *688 | |
| Tributary C2 | Confluence with West Branch Crayfish Creek. | None | *670 | City of Oak Creek. |
| | Approximately 1500 feet upstream of Shepard Avenue. | None | *701 | |
| Tributary C3 | Confluence with Crayfish Creek | None | *668 | City of Oak Creek. |
| | Approximately 0.9 miles from Oakwood Road. | None | *677 | |
| Tributary C3A | Confluence with Crayfish Creek Tributary C3. | None | *669 | City of Oak Creek. |

| Flooding source(s) | Location of referenced elevation | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| | Approximately 0.5 miles upstream of confluence with Crayfish Creek Tributary C3. | None | *672 | |
| Lake Michigan: | | | | |
| Tributary L1 | Approximately 380 feet upstream of mouth to Lake Michigan. | None | *643 | City of Oak Creek. |
| | Approximately 0.4 miles upstream of 5th Avenue. | None | *677 | |
| Tributary L5 | Approximately 510 feet upstream of mouth to Lake Michigan. | None | *654 | City of Oak Creek. |
| | Approximately 0.4 miles upstream of mouth to Lake Michigan. | None | *691 | |
| Legend Creek | Confluence with the Root River | None | *695 | City of Franklin. |
| | Upstream side of U.S. Highway 45 | None | *800 | |
| Lincoln Creek | Confluence with the Milwaukee River. | *623 | *624 | City of Glendale. |
| | Upstream side of Teutonia Avenue | *631 | *628 | City of Milwaukee. |
| | Upstream of Mill Road | *691 | *687 | |
| | Upstream of Good Hope Road | *696 | *692 | |
| Menomonee River | 240 feet upstream of Canal Street | *588 | *589 | City of Milwaukee. |
| | Upstream side of South 35th Street | *601 | *598 | City of Wauwatosa. |
| | Upstream side of Chicago & Northwestern Railroad. | *604 | *608 | |
| | Upstream side of U.S. Highway 41 | *626 | *624 | |
| | Upstream side of Harwood Avenue Pedestrian Bridge. | *656 | *658 | |
| Milwaukee River | Upstream side of Cherry Street | *585 | *584 | City of Milwaukee. |
| | Downstream side of North Avenue | *600 | *597 | Village of Brown Deer. |
| | Upstream side of Capitol Drive | *607 | *605 | Village of River Hills. |
| | Upstream side of Good Hope Road | *639 | *640 | Village of Shorewood. |
| Mitchell Field Drainage Ditch | Confluence with Oak Creek | *661 | *660 | City of Milwaukee. |
| | Approximately 0.5 miles upstream of Howell Avenue. | None | *711 | City of Oak Creek. |
| Mitchell Field Drainage Ditch: | | | | |
| Tributary M1 | Confluence with Mitchell Field Drainage Ditch. | None | *672 | City of Oak Creek. |
| | Approximately 0.5 miles upstream of Howell Avenue. | None | *713 | |
| Tributary M4 | Confluence with Mitchell Field Drainage Ditch. | None | *666 | City of Oak Creek. |
| | Approximately 0.4 miles upstream of confluence with Mitchell Field Drainage Ditch. | None | *683 | |
| North Branch Oak Creek | Confluence with Oak Creek | *678 | *682 | City of Milwaukee. |
| | Downstream side of Marquette Avenue. | *711 | *713 | City of Oak Creek. |
| | Approximately 630 feet upstream of Interstate 94. | None | *742 | |
| North Branch Oak Creek: | | | | |
| Tributary N2 | Confluence with North Branch Oak Creek. | None | *710 | City of Milwaukee. |
| | Approximately 125 feet upstream of 16th Street. | None | *743 | City of Oak Creek. |
| Tributary N4 | Confluence with North Branch Oak Creek. | None | *716 | City of Oak Creek. |
| | Downstream side of Interstate 94 | None | *728 | |
| Tributary N5 | Confluence with North Branch Oak Creek. | None | *710 | City of Oak Creek. |
| | Approximately 0.9 miles upstream of Interstate 94. | None | *757 | |
| Tributary N7 | Confluence with North Branch Oak Creek. | None | *704 | City of Oak Creek. |
| | Approximately 0.4 miles upstream of 20th Street—Drexel Avenue. | None | *721 | |
| Tributary N7A | Confluence with North Branch Oak Creek Tributary N7. | None | *713 | City of Oak Creek. |
| | Approximately 590 feet upstream of 20th Street. | None | *735 | |

| Flooding source(s) | Location of referenced elevation | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Oak Creek | Upstream side of 2nd Oak Creek Parkway Crossing. | *602 | *603 | City of Franklin. City of Oak Creek. |
| | Upstream side of Southland Drive | *733 | *735 | |
| | Approximately 1360 feet upstream of Puetz Road. | None | *753 | |
| Oak Creek: | | | | |
| Tributary O16 | Upstream side of Pennsylvania Avenue. | None | *666 | City of Oak Creek. |
| | Approximately 0.5 miles upstream of Forest Lane. | None | *681 | |
| Tributary O17 | Upstream side of Pennsylvania Avenue. | None | *663 | City of Oak Creek. |
| | Approximately 0.9 miles upstream of Pennsylvania Avenue. | None | *676 | |
| Tributary O19 | Confluence with Oak Creek Tributary. | None | *664 | City of Oak Creek. |
| | Approximately 0.6 miles upstream of confluence with Oak Creek Tributary O19A. | None | *684 | |
| Tributary O19A | Confluence with Oak Creek | None | *663 | City of Oak Creek. |
| | Approximately 1500 feet upstream of Puetz Road. | None | *673 | |
| Tributary O20 | Confluence with Oak Creek | None | *661 | City of Oak Creek. |
| | Approximately 0.5 miles upstream of confluence with Oak Creek. | None | *674 | |
| Tributary O8 | Confluence with Oak Creek | None | *674 | City of Oak Creek. |
| Root River | Downstream side of State Highway 38. | None | *689 | |
| | 500 feet downstream of Nicholson Road. | *668 | *666 | City of Oak Creek. |
| | Upstream side of Interstate 94 | *677 | *676 | |
| Root River: | | | | |
| Tributary R2 | Approximately 1.2 miles upstream of confluence with the Root River. | None | *672 | City of Oak Creek. |
| | Approximately 0.4 miles upstream of Oakwood Avenue. | None | *691 | |
| Tributary R3 | Confluence with Root River Tributary R2. | None | *691 | City of Oak Creek. |
| | Approximately 185 feet upstream of 13th Street. | None | *698 | |
| Tributary R5 | Confluence with the Root River | None | *668 | City of Oak Creek. |
| | Downstream side of Elms Road | None | *696 | |
| South Branch | At Waukesha County Boundary | None | *723 | City of Wauwatosa. |
| Underwood Creek | Downstream side of Bradley Road | None | *729 | City of West Allis. |
| Southbranch Creek | Upstream side of Green Bay Court | *652 | *651 | City of Milwaukee. |
| | Downstream side of Bradley Road | *685 | *683 | Village of Brown Deer. |
| Southland Creek | Confluence with North Branch Oak Creek. | None | *694 | City of Oak Creek. |
| | Approximately 125 feet upstream of 27th Street. | None | *736 | |
| Underwood Creek | Confluence with the Menomonee River. | *679 | *678 | City of Wauwatosa |
| | 1120 feet upstream of 115th Street | *719 | *718 | |
| Unnamed Tributary No. 1 to Oak Creek | Confluence with Oak Creek | None | *737 | City of Franklin |
| | Approximately 60 feet upstream of Puetz Road. | None | *755 | |
| Unnamed Tributary No. 1 to Southland Creek | Confluence with Southland Creek | None | *702 | City of Oak Creek. |
| | Approximately 60 feet upstream of Puetz Road. | None | *725 | |

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

## ADDRESSES

**City of Franklin**

Maps are available for inspection at 9229 W Loomis Road, Franklin, WI.

Send comments to The Honorable Thomas Taylor, Mayor, 9229 W Loomis Road, Franklin, WI 53132–9630.

| Flooding source(s) | Location of referenced elevation | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground. | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |

**City of Glendale**
Maps are available for inspection at 5909 N Milwaukee River Parkway, Glendale, WI.
Send comments to The Honorable Jerome Tepper, Mayor, 5909 N Milwaukee River Parkway, Glendale, WI 53209–3815.

**City of Milwaukee**
Maps are available for inspection at 200 E Wells Street, Milwaukee, WI.
Send comments to The Honorable Tom Barrett, Mayor, 200 E Wells Street, Room 205, Milwaukee, WI 53202–3515.

**City of Oak Creek**
Maps are available for inspection at 8640 S Howell Avenue, Oak Creek, WI.
Send comments to The Honorable Richard Bolender, Mayor, PO Box 27, Oak Creek, WI 53154–2918.

**City of South Milwaukee**
Maps are available for inspection at 2424 15th Avenue, South Milwaukee, WI.
Send comments to The Honorable Thomas Zepecki, Mayor, 2424 15th Avenue, South Milwaukee, WI 53172–2410.

**City of Wauwatosa**
Maps are available for inspection at 7725 W North Avenue, Wauwatosa, WI.
Send comments to The Honorable Theresa Estness, Mayor, 7725 W North Avenue, Wauwatosa, WI 53213–1720.

**City of West Allis**
Maps are available for inspection at 7525 W Greenfield Avenue, West Allis, WI.
Send comments to The Honorable Jeannette Bell, Mayor, 7525 W Greenfield Avenue, West Allis, WI 53214–4648.

**Village of Brown Deer**
Maps are available for inspection at 4800 W Green Brook Drive, Brown Deer, WI.
Send comments to Ms. Margaret Jayberg, President, 4800 W Green Brook Drive, Brown Deer, WI 53223–2406.

**Village of River Hills**
Maps are available for inspection at 7650 N Pheasant Lane, River Hills, WI.
Send comments to Mr. Robert C. Brunner, President, 7650 N Pheasant Lane, River Hills, WI 53217–3012.

**Village of Shorewood**
Maps are available for inspection at 3930 N Murray Avenue, Shorewood, WI.
Send comments to Mr. Guy Johnson, President, 3930 N Murray Avenue, Shorewood, WI 53211–2303.

Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance''.

Dated February 7, 2007.

**David I. Maurstad,**

*Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. E7–2638 Filed 2–14–07; 845 am]

BILLING CODE 9110–12–P

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

### 49 CFR Parts 1520 and 1580

**[Docket No. TSA–2006–26514]**

**RIN 1652–AA51**

### Rail Transportation Security

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document places in the **Federal Register** the entire Initial Regulatory Flexibility Analysis (IRFA) for this proposed rulemaking on rail transportation security, which has been available in the public docket. TSA published a Notice of Proposed Rulemaking (NPRM) on Rail Transportation Security and placed the IRFA in the public docket as part of the comprehensive Regulatory Impact Assessment, on December 28, 2006. However, TSA inadvertently omitted the summary of the IRFA from the NPRM when we published it in the **Federal Register**. TSA decided to publish in the **Federal Register** the same IRFA that has been in the docket.

**FOR FURTHER INFORMATION CONTACT:**

*For questions related to rail security:* Lisa Pena, Transportation Sector Network Management, Freight Rail Security, TSA–28, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–4414; facsimile (571) 227–1923; email *lisa.pena@dhs.gov*.

*For legal questions:* David H. Kasminoff, Office of Chief Counsel, TSA–2, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–3583; facsimile (571) 227–1378; email *david.kasminoff@dhs.gov*.

**SUPPLEMENTARY INFORMATION:**

**Submitting Comments to the NPRM**

TSA invited comments to the NPRM that TSA published in the **Federal Register** on December 21, 2006 (71 FR 76852); Docket No. TSA–2006–26514; RIN 1652-AA51. You may continue to submit comments to the NPRM until the comment period closes on February 20, 2007, using any one of the methods and the procedures identified in the NPRM.

**Availability of Rulemaking Document**

You can get an electronic copy using the Internet by

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) web page (*http://dms.dot.gov/search*);

(2) Accessing the Government Printing Office's web page at *http://www.gpoaccess.gov/fr/index.html*; or

(3) Visiting TSA's Security Regulations web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Be sure to identify the docket number of this rulemaking.

**Background**

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), TSA prepared an Initial Regulatory Flexibility Analysis (IRFA) of the proposed rail transportation security rule. On December 28, 2006, TSA made the IRFA available in the public docket for this rulemaking as part of the comprehensive Regulatory Impact Assessment. However, TSA inadvertently omitted the summary of the IRFA when we published the NPRM in the **Federal Register** on December 21, 2006 (71 FR 76852). To correct this oversight, TSA decided to publish in this document, the same IRFA, in its entirety, in the **Federal Register**. No new information is being added to the analysis with this document, but TSA is providing an additional means for the public to see this information.

**Initial Regulatory Flexibility Analysis**

You may find the following IRFA, as reproduced below verbatim from the public docket for this rulemaking, in Section 7 of the Regulatory Impact Assessment, beginning on page 36. In this analysis, we note several abbreviations: (1) North American Classification System (NAICS); (2) Environmental Protection Agency's Risk Management Program (RMP); (3) Rail Security Coordinators (RSCs); and (4) Small Business Administration (SBA). You may view or download the IRFA directly from the public docket at *http://dmses.dot.gov/docimages/pdf99/434562_web.pdf*.

**7. Initial Regulatory Flexibility Analysis**

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), TSA prepared this Initial Regulatory Flexibility Analysis (IRFA) that examines the impacts of the proposed rule on small entities (5 U.S.C. 601 *et seq.*). A small entity may be: (1) A small business, defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act (5 U.S.C. 632); (2) a small not-for-profit organization; or (3) a small governmental jurisdiction (locality with fewer than 50,000 people).

This IRFA addresses the following:

1. The objectives of and legal basis for the proposed rule;
2. The reason the agency is considering this action;
3. The number and types of small entities to which the rule applies;
4. Projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including the classes of small entities that will be subject to the requirements and the type of professional skills necessary for preparation of the reports and records;
5. Other relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule; and
6. Significant alternatives to the component under consideration that accomplish the stated objectives of applicable statutes and may minimize any significant economic impact of the proposed rule on small entities.

*7.1 Background and Legal Authority*

In response to the attacks on September 11, 2001, Congress passed the Aviation and Transportation Security Act (ATSA),[1] which established the Transportation Security Administration (TSA). TSA was created as an agency within the Department of Transportation (DOT), operating under the direction of the Under Secretary of Transportation for Security. On March 1, 2003, TSA was transferred to the Department of Homeland Security (DHS) and the officer formerly designated Under Secretary for Transportation Security, DOT, is now the Assistant Secretary, Transportation Security Administration (TSA), Department of Homeland Security (DHS).

TSA has the responsibility for enhancing security in all modes of transportation. Under ATSA, and delegated authority from the Secretary of Homeland Security, TSA has broad responsibility and authority for ''security in all modes of transportation * * * including security responsibilities'' over modes of transportation that are exercised by the Department of Transportation.'' [2] TSA has additional authorities as well. TSA is specifically empowered to develop policies, strategies, and plans for dealing with threats to transportation.[3] As part of its security mission, TSA is responsible for assessing intelligence and other information to identify individuals who pose a threat to transportation security and to coordinate countermeasures with other Federal agencies to address such threats.[4] TSA also is to enforce security-related regulations and requirements,[5] ensure the adequacy of security measures for the transportation of cargo,[6] oversee the implementation, and ensure the adequacy, of security measures at transportation facilities,[7] and carry out other appropriate duties relating to transportation security.[8] TSA has broad regulatory authority to achieve ATSA's objectives, and may issue, rescind, and revise such regulations as are necessary to carry out TSA functions,[9] and may issue regulations and security directives without notice or comment or prior approval of the Secretary of DHS.[10] TSA is also charged with serving as the primary liaison for transportation security to the intelligence and law enforcement communities.[11]

TSA's authority with respect to transportation security is comprehensive and supported with specific powers related to the development and enforcement of regulations, security directives, security plans, and other requirements. Accordingly, under this authority, TSA may assess a security risk for any mode of transportation, develop security measures for dealing with that risk, and enforce compliance with those measures.

TSA's legal authority is supported by National policy. On December 17, 2003, the President issued Homeland Security Presidential Directive 7 (HSPD–7, Critical Infrastructure Identification, Prioritization, and Protection), which ''establishes a national policy for Federal departments and agencies to identify and prioritize United States critical infrastructure and key resources and to protect them from terrorist attacks.'' [12] In recognition of the lead role assigned to DHS for transportation security, and consistent with the powers granted to TSA by ATSA, the directive provides that the roles and responsibilities of the Secretary of DHS include coordinating protection activities for ''transportation systems, including mass transit, aviation, maritime, ground/surface, and rail and

[1] Public Law 107–71, 115 Stat. 597 (November 19, 2001).

[2] *See*, 49 U.S.C. 114(d). The TSA Assistant Secretary's current authorities under ATSA have been delegated to him by the Secretary of Homeland Security. Under Section 403(2) of the Homeland Security Act (HSA) of 2002, Pub. L. 107–296, 116 Stat. 2315 (2002), all functions of TSA, including those of the Secretary of Transportation and the Undersecretary of Transportation of Security related to TSA, transferred to the Secretary of Homeland Security. Pursuant to DHS Delegation Number 7060.2, the Secretary delegated to the Assistant Secretary (then referred to as the Administrator of TSA), subject to the Secretary's guidance and control, the authority vested in the Secretary with respect to TSA, including that in Section 403(2) of the HSA.

[3] 49 U.S.C. 114(f)(3).

[4] 49 U.S.C. 114(f)(1)–(5); (h)(1)–(4).

[5] 49 U.S.C. 114(f)(7).

[6] 49 U.S.C. 114(f)(10).

[7] 49 U.S.C. 114(f)(11).

[8] 49 U.S.C. 114(f)(15).

[9] 49 U.S.C. 114(l)(1).

[10] 49 U.S.C. 114(l)(2).

[11] 49 U.S.C. 114(f) (1) and (5).

[12] HSPD–7, Paragraph 1.

pipeline systems.'' [13] In furtherance of this coordination process, HSPD–7 provides that DHS and DOT will ''collaborate on all matters relating to transportation security and transportation infrastructure protection.'' [14] *See*, HSPD–7, Paragraph 22(h).

In accordance with the September 2004 Memorandum of Understanding (MOU) between DHS and DOT, both Departments share responsibility for rail and hazardous materials transportation security. The two departments consult and coordinate on security-related rail and hazardous materials transportation requirements to ensure they are consistent with overall security policy goals and objectives and the regulated industry is not confronted with inconsistent security guidance or requirements promulgated by multiple agencies.

*7.2 Statement of Need for the Proposed Action*

TSA developed the proposed rule to mitigate threats and vulnerabilities in the rail transportation network. In the United States, freight rail transportation systems transport hundreds of millions of dollars worth of freight and employ hundreds of thousands of individuals on an annual basis.[15] Furthermore, passenger systems, including passenger rail carriers as well as mass transit systems, carry millions of people daily throughout the country.

Rail transportation networks '' both passenger and freight'' are vulnerable to a variety of transportation security incidents. In the past, terrorists have targeted passenger rail transportation systems to inflict mass casualties (*e.g.* Tokyo 1995; Moscow 2000, 2001, and 2004; Madrid 2004; London 2005; and Mumbai 2006). When transporting certain materials, freight rail systems also represent potential terrorist targets. Although not the result of a deliberate attack, the incident involving a ruptured chlorine tank car in Graniteville, South Carolina, killed nine people and injured hundreds more. These incidents highlight the fact that hazardous materials in rail transportation and rail passenger systems are possible targets of terrorism intended to inflict hundreds or even thousands of fatalities, with direct and indirect costs from transportation system disruption that could total billions of dollars.

The Notice of Proposed Rulemaking attempts to reduce the probability that such an event would occur by: (1) Requiring the protection of sensitive security information in the rail sector; (2) giving TSA authority to conduct inspections of rail security operations; (3) requiring the designation of Rail Security Coordinators; (4) requiring covered entities to have the ability to report on rail car locations; (5) requiring covered entities to report significant security concerns to TSA; and (6) requiring covered entities to establish a chain of custody and control standards for certain hazardous shipments.

*7.3 Description and Estimated Number of Small Entities*

The regulated entities are divided into railroad carriers, transit systems, and rail hazmat facilities. Rail hazmat facilities are primarily chemical manufacturers although some wholesalers may also ship chemicals. In addition, some ammonia producers classify themselves as support activities for agriculture or agricultural wholesalers. Figure 1 provides the NAICS codes and SBA standards for defining small entities for the sectors expected to be affected by the rule.

FIGURE 1.—FIRM SIZE STANDARDS

| Industry | NAICS | Small business standard |
|---|---|---|
| Line Haul railroads | 482111 | 1,500 FTE. |
| Short line railroads | 482112 | 500 FTE. |
| Transit Systems | 485 | $6.5 million. |
| Petrochemical manufacturing | 32511 | 1,000 FTE. |
| Alkalis and chlorine manufacturing | 325181 | 1,000 FTE. |
| All other basic inorganics | 325188 | 1,000 FTE. |
| All other basic organics | 325199 | 1,000 FTE. |
| Plastic and resin manufacturing | 32511 | 750 FTE. |
| Nitrogen fertilizer manufacturing | 325311 | 1,000 FTE. |
| Other chemical manufacturing | 325 | 500–1,000 FTE. |
| Support activities for rail | 48821 | $6.5 million. |
| Petroleum refineries | 32411 | 1,500 FTE. |
| Pulp and paper mills | 3221 | 750 FTE. |
| Support activities for agriculture | 1151 | $6.5 million. |
| Chemical wholesalers | 42469 | 100 FTE. |
| Agricultural wholesalers | 42491 | 100 FTE. |
| Electric utilities | 2111 | <4 m megawatt hours/year. |
| Water and sewage systems, private | 2213 | $6.5 million. |
| Water and sewage systems, public | 92 | <50,000 people serviced. |

Source: Small Business Administration.

Overall, of all the regulated parties, TSA identified 654 entities that may meet the SBA definition of small entity.

The number of small rail carriers potentially affected by the rule is difficult to estimate accurately because most local rail carriers are privately owned. Based on AAR data on employment and revenues, TSA assumed that all rail carriers except the seven Class I railroads are small entities.[16] This assumption may be conservative because some private companies own a number of local railroads and may exceed the 500 FTE size limits. Figure 2 presents the AAR data on the number of railroads, average revenues, and average number of FTEs.

[13] HSPD–7, Paragraph 15.

[14] HSPD–7, Paragraph 22(h).

[15] U.S. Department of Transportation, Research and Innovative Technology Administration, Bureau of Transportation Statistics, *Pocket Guide to Transportation 2006* (Washington, D.C.: Bureau of Transportation Statistics, 2006).

[16] Association of American Railroads, ''*Overview of U.S. Freight Railroads*,'' January 2006.

FIGURE 2.—RAILROAD TYPES BY AVERAGE REVENUE AND NUMBER OF EMPLOYEES

| Type | Number | Average freight revenue | Average number of FTEs |
|---|---|---|---|
| Class I | 7 | $5,590,000,000 | 21,100 |
| Regional | 31 | 45,483,871 | 239 |
| Local | 314 | 3,121,019 | 17 |
| Switching and Terminal | 204 | 3,137,255 | 32 |

Source: American Association of Railroads.

BTS list 152 transit systems (21 commuter rail systems, 45 rail transit systems, 86 other rail transit systems).[17] Of these, 86 are listed as ''other,'' and include cable car, inclined plane, monorail, and automated guideway.[18] As shown in Figure 3, only the systems in the ''other'' category have average passenger revenues of less than $6.5 million, which is the SBA standard for small transit entities. The other transit systems not only have average passenger revenues that exceed the standard, but are generally also operated by governmental entities that receive support from federal and state governments. It is unlikely that local governments that meet the SBA standard for small governments (50,000 people served) operate rail transit systems. Consequently, TSA has included only the ''other'' entities as potentially affected small entities.

FIGURE 3.—TRANSIT SYSTEMS BY AVERAGE REVENUES

| Type | Number | Average annual passenger revenue |
|---|---|---|
| Heavy Rail | 14 | $189,590,000 |
| Light Rail | 27 | 8,490,000 |
| Commuter Rail | 21 | 73,910,000 |
| Other | 86 | 590,000 |

Source: BTS.

Of the 241 rail hazmat facilities identified from the RMP data, there are 36 facilities that may be small entities (fewer than 500 employees for manufacturers or 100 for wholesalers and not obviously part of larger corporations). Of the 36 identified small entities, only a certain subset may incur costs for rail secure areas. As explained in Section 5.6.1, only facilities with a range of less than five to less than 21 employees are expected to incur incremental costs related to creating secure storage areas, while all would incur costs for the other requirements.

Figure 4 presents the RMP data distribution by FTE for hazmat facilities that may be SBA-defined small entities. Of the total facilities assumed to be small, seven have 10 to 19 employees; 17 have 20–49 employees; six have 50–99 employees; and 6 have 100–499.[19]

FIGURE 4.—AFFECTED SMALL RAIL HAZMAT FACILITIES

| Number of FTEs | Rail hazmat facilities |
|---|---|
| 100–499 | 6 |
| 50–99 | 6 |
| 20–49 | 17 |
| 10–19 | 7 |
| 1–9 | 0 |
| Potential Small Entities | 36 |
| Facilities with FTE > 499 | 205 |
| Total Rail Hazmat Facilities | 241 |

Source: TSA Calculations.

*7.4 Description of Compliance Requirements*

Railroads will have to submit the name(s) of and engage in training of the RSC, document chain of custody transfers, and file incident reports and car location reports as needed. TSA assumed that regional and local carriers handled hazmat shipments in proportion to their percentage of total freight carried. Again, this assumption may be conservative because it is likely that Class I carriers move most chemicals. Figure 5 presents the costs for an average regional, local, and S&T rail carrier to comply with the requirements.

FIGURE 5.—AVERAGE COSTS TO RAILROADS BY SIZE

| Requirement | Unit cost | # Activities/ year | Regional | Local | S & T |
|---|---|---|---|---|---|
| RSC | $91 | 2 | $182 | $182 | $182 |
| Incident Report | 63 | 2 | 126 | 126 | 126 |

[17] Bureau of Transportation Statistics, National Transportation Statistics, Modal Profile Transit Systems, Updated April 2005. Note, however, that four of the 152 transit system listed by BTS are classified as trolley bus and would not be covered by this proposed rule. This is represented in Figure 22, which only shows 41 transit systems (14 heavy rail and 27 light rail).

[18] The estimate for ''Other Rail Transit Systems'' impacted by the proposed rule shown in Figure 22 is conservative because it includes conveyances such as vanpool and aerial tramway, which would not be affected by this NPRM.

[19] The number of facilities that actually are part of firms that meet the small entity definitions may be lower. TSA excluded only those facilities that could be clearly identified as belonging to corporations or municipalities that exceed the SBA standards.

FIGURE 5.—AVERAGE COSTS TO RAILROADS BY SIZE—Continued

| Requirement | Unit cost | # Activities/ year | Regional | Local | S & T |
|---|---|---|---|---|---|
| Chain of Custody | 4,969,723 | Weighted by % of Revenue | 5,362 | 368 | 370 |
| Location | 91 | 1 | 91 | 91 | 91 |
| Total | | | 5,761 | 767 | 769 |

Source: TSA Calculations.

As discussed above, only the 86 transit systems in the ''other'' category in Figure 3 are expected to be small entities according to SBA standards.[20] These small transit systems will only incur unit costs for submission of RSC information and incident reporting. Both the RSC and incident reporting costs are expected to be incurred on average just once per year per small transit system, resulting in average costs per system of just $245, as shown in Figure 6.

FIGURE 6.—AVERAGE COSTS FOR SMALL TRANSIT SYSTEMS

| Requirement | Unit cost | # of Activities/year | Regional |
|---|---|---|---|
| | A | B | A × B |
| RSC | $91.00 | 2 | $182 |
| Incident Report | 63.00 | 1 | 63 |
| Total | | | 245 |

Source: TSA Calculations.

As explained above, the cost for hazmat facilities includes the cost of adding fencing, training, and inspections, plus the types of cost incurred by railroads. TSA assumed that each facility will train 10 workers and the number of inspections per small facility is based on the assumption that the number of inspections is proportional to the quantity of chemical held. The 36 small rail hazmat facilities represent about 6.5 percent of the affected chemicals; therefore 6.5 percent of the inspections were divided among the 36 firms to estimate 384 inspections a year. Figure 7 presents the average costs for a hazmat facility. Because fencing is a capital cost, Figure 7 also presents the cost based on amortizing the fencing cost over 10 years at 7% discount rate.[21]

FIGURE 7.—AVERAGE COSTS FOR SMALL RAIL HAZMAT FACILITIES

| Requirement | Unit cost | # | First-year cost | Annualized |
|---|---|---|---|---|
| | A | B | A × B | |
| Secure Storage Area | $16,150 | 1 | $16,150 | $2,299 |
| RSC | 91 | 2 | 182 | 182 |
| Training | 63 | 10 | 630 | 630 |
| Inspections | 32 | 384 | 12,096 | 12,096 |
| Incident Report | 63 | 1 | 63 | 63 |
| Chain of Custody | 42,481 | 1 | 42,481 | 42,481 |
| Location Reporting | 91 | 1 | 91 | 91 |
| Total | | | 71,693 | 57,842 |

Source: TSA Calculations.

Figure 8 presents the average costs as a percent of average sales. As can be seen, some small entities categorized as chemical or agricultural wholesalers may incur costs that exceed one percent of annual sales. TSA requests comment on whether the rule will have a significant economic impact on a substantial number of small entities.

[20] Again, it is important to note that the estimate of 86 ''Other Rail Transit Systems'' impacted by the rule is in all likelihood conservative.

[21] Note that calculations in Figure 23 may be off due to rounding.

FIGURE 8.—AVERAGE FIRST-YEAR COMPLIANCE COSTS AS A PERCENT OF REVENUE

| Type | Average first-year cost | Average revenue | Cost as a percent of revenue (percent) |
|---|---|---|---|
| | A | B | A/B |
| Regional | $5,761 | $45,483,871 | 0.01 |
| Local | 767 | 3,121,019 | 0.02 |
| S & T | 769 | 3,137,255 | 0.02 |
| Small Transit | 245 | 590,000 | 0.04 |
| Chemical Manufacturer, 10–19 FTE | 71,693 | 18,637,676 | 0.38 |
| Chemical Wholesaler, 10–19 FTE | 71,693 | 6,184,695 | 1.16 |
| Agricultural Wholesaler, 10–19 FTE | 71,693 | 6,062,925 | 1.18 |

Source: TSA Calculations.

*7.5 Identification of Duplication, Overlap, and Conflict With Other Rules*

TSA has no knowledge of any duplicative, overlapping, or conflicting Federal rules.

*7.6 Preliminary Conclusion*

Based on this preliminary analysis, TSA has not determined if the rulemaking would have a significant economic impact on a substantial number of small entities under section 605(b) of the RFA (5 U.S.C. 601 *et seq.*). The agency requests comment on all aspects of this analysis. TSA will publish a Final Regulatory Flexibility Analysis for the Final Rule.

Issued in Arlington, Virginia, on February 12, 2007.

**Mardi Ruth Thompson,**

*Deputy Chief Counsel for Regulations.*

[FR Doc. 07–715 Filed 2–13–07; 10:44 am]

BILLING CODE 9110–05–P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**RIN 1018–AV19**

## Endangered and Threatened Wildlife and Plants; 12-Month Petition Finding and Proposed Rule To List the Polar Bear (*Ursus maritimus*) as Threatened Throughout Its Range

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; notice of public informational meetings and public hearings.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the locations and times of combined public meetings that have been scheduled to: (1) Provide information on the 12-month petition finding and proposed rule to list the polar bear (*Ursus maritimus*) as threatened throughout its range, and (2) Receive verbal public comments on that proposal.

**DATES:** The meeting dates are:

1. March 1, 2007, 7 to 10 p.m., Anchorage, AK.
2. March 5, 2007, 6 to 9 p.m., Washington, DC.
3. March 7, 2007, 5 to 10 p.m., Barrow, AK.

We will accept written comments until April 9, 2007. If you wish to submit written comments, follow the directions in our January 9, 2007, proposed regulation (72 FR 1064).

**ADDRESSES:** The meeting locations are:

1. Anchorage—Wilda Marston Theatre, Z.J. Loussac Library, 3600 Denali Street, Anchorage, AK 99503.
2. Washington, DC—Department of the Interior (Sidney Yates Auditorium), 1849 C St., NW., Washington, DC 20240.
3. Barrow—Inupiat Heritage Center (Multipurpose Room), Barrow, AK 99723.

**FOR FURTHER INFORMATION CONTACT:** Cathy Rezabeck, Regional Outreach Coordinator, 1011 East Tudor Rd., MS–101, Anchorage, AK 99503 (telephone 907/786–3351). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week. For information concerning the Washington, D.C., meeting, please contact Valerie Fellows, Public Affairs Specialist, U.S. Fish and Wildlife Service, 1849 C Street, NW., Washington, DC 20240 (telephone 202/208–5634).

**SUPPLEMENTARY INFORMATION:** We will hold a combined public informational meeting and public hearing at the following locations: Anchorage, Alaska; Barrow, Alaska; and Washington, DC. In each location, the public informational meeting will precede the public hearing. All meetings will include a 30-minute presentation on the Service's status review of the polar bear followed by a 30-minute question and answer period on the status review. We invite the public to provide oral testimony during the public hearing.

### Background

On January 9, 2007, we published a proposed rule (72 FR 1064) to list the polar bear as threatened on the Federal List of Endangered and Threatened Wildlife in 50 CFR 17.11(h). Because of the wide geographic scope of the proposal and heightened public interest, we have scheduled public informational meetings and public hearings at three locations.

Our purpose for holding these public informational meetings is to provide additional opportunities for the public to gain information and ask questions about our proposal. These informational sessions should assist interested parties in preparing substantive comments, which we will accept until close of business (5 p.m.) Alaska Local Time on April 9, 2007. The public hearings will be the only method for the public to verbally present comments and data for entry into the public record of this rulemaking and for our consideration during our final decision. Anyone wishing to make an oral comment or statement for the record at a public hearing listed above is encouraged (but not required) to also provide a written copy of the statement and present it to us at the hearing. Oral and written statements receive equal consideration. In the event there is a large attendance, the time allotted for oral statements may be limited.

Comments and data can also be submitted in writing or electronically, as described in the January 9, 2007, proposal, and at: *http://alaska.fws.gov/fisheries/mmm/polarbear/issues.htm.*

### Public Comments Solicited

We intend that any final action resulting from the proposed rule will be

as accurate and as effective as possible. Therefore, we request comments or information from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the proposed rule. We particularly seek comments concerning:

(1) Information on taxonomy, distribution, habitat selection (especially denning habitat), food habits, population density and trends, habitat trends, and effects of management on polar bears;

(2) Information on the effects of sea ice change on the distribution and abundance of polar bears and their principal prey over the short and long term;

(3) Information on the effects of other potential listing factors, including oil and gas development, contaminants, ecotourism, hunting, and poaching, on the distribution and abundance of polar bears and their principal prey over the short and long term;

(4) Information on regulatory mechanisms and management programs for polar bear conservation, including mitigation measures related to oil and gas exploration and development, hunting conservation programs, anti-poaching programs, and any other private, tribal, or governmental conservation programs that benefit polar bears;

(5) The specific physical and biological features to consider, and specific areas that may meet the definition of critical habitat and that should or should not be considered for a proposed critical habitat designation as provided by section 4 of the Endangered Species Act;

(6) Information relevant to whether any populations of the species may qualify as distinct population segments; and

(7) The data and studies referred to within the proposal.

## Author

The author of this notice is Charles S. Hamilton, U.S. Fish and Wildlife Service, Anchorage, Alaska.

## Authority

The authority for this notice is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 2, 2007.

**Mamie A. Parker,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 07–723 Filed 2–13–07; 11:21 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 223

**[Docket No. 070122014–7014–01; I.D. 011907A]**

**RIN 0648–AV04**

# Endangered and Threatened Wildlife; Sea Turtle Conservation Requirements

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

**ACTION:** Advance notice of proposed rulemaking; request for comments.

**SUMMARY:** NMFS issues this advance notice of proposed rulemaking to announce that it is considering amendments to the regulatory requirements for turtle excluder devices (TEDs). Specific changes NMFS is considering include increasing the size of the TED escape opening currently required in the summer flounder fishery; requiring the use of TEDs in the flynet, whelk, calico scallop, and Mid-Atlantic sea scallop trawl fisheries; and moving the current northern boundary of the Summer Flounder Fishery-Sea Turtle Protection Area off Cape Charles, Virginia, to a point farther north. The objective of the proposed measures would be to effectively protect all life stages and species of sea turtle in Atlantic trawl fisheries where they are vulnerable to incidental capture and mortality. NMFS is seeking public comment on these potential amendments to the TED regulations. NMFS is also soliciting public comment on the need for, and development and implementation of, other methods to reduce bycatch of sea turtles in any commercial or recreational fishery in the Atlantic and Gulf of Mexico where sea turtle conservation measures do not currently exist.

**DATES:** Comments will be accepted through March 19, 2007.

**ADDRESSES:** Written comments on this action and requests for literature cited should be addressed to Michael Barnette, Southeast Regional Office, Office of Protected Resources, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701. Comments may also be sent via fax to 727–824–5309, via email to *0648–AV04@noaa.gov*, or to the Federal eRulemaking portal: *http://www.regulations.gov* (follow instructions for submitting comments).

**FOR FURTHER INFORMATION CONTACT:** Michael Barnette (ph. 727–824–5312, fax 727–824–5309, e-mail *Michael.Barnette@noaa.gov*), Ellen Keane (ph. 978–281–9300 x6526, fax 978–281–9394, e-mail *Ellen.Keane@noaa.gov*), or Tanya Dobrzynski (ph. 301–713–2322, fax (301) 427–2522, e-mail *Tanya.Dobrzynski@noaa.gov*).

**SUPPLEMENTARY INFORMATION:**

## Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered. Incidental capture of sea turtles in fisheries (bycatch) is a primary factor hampering the recovery of sea turtles in the Atlantic Ocean and the Gulf of Mexico.

To address this factor comprehensively, NMFS has initiated a Strategy for Sea Turtle Conservation and Recovery in Relation to Atlantic Ocean and Gulf of Mexico Fisheries (Strategy). The Strategy is a gear-based approach to addressing sea turtle bycatch. Certain types of fishing gear are more prone to the incidental capture of sea turtles than others, depending on the design of the gear, the way the gear is fished, and/or the time and area within which it is fished. An evaluation of sea turtle interactions by gear type provides a more comprehensive assessment of fishery impacts across fishing sectors as well as across state, federal, and regional boundaries. Through this strategy, NMFS seeks to address sea turtle bycatch across jurisdictional boundaries and fisheries for gear types that have the greatest impact on sea turtle populations.

Through the Strategy and based on documented sea turtle-fishery interactions, NMFS has identified trawl gear as a priority for reducing sea turtle bycatch. Trawling is a method of fishing that involves actively towing a net through the water behind one or more boats. Because trawl gear is towed, it has the capability to incidentally capture sea turtles and other species that are not the intended target of the fishery. The likelihood of incidental capture is inherent in the basic design of trawls, regardless of the specific fishery. Trawl fisheries with documented observer coverage or

historical bycatch information that occur in known areas and times of sea turtle distribution have consistently been shown to capture sea turtles. In fact, trawling is often used as a means to capture sea turtles for research, distribution studies, and relocation because of the effectiveness of this method. Without an avenue for escape, sea turtles are likely to drown when captured in trawl gear due to forced submergence. Even when drowning does not occur, the stresses of forced submergence have been shown to result in various negative physiological consequences that can make the turtles susceptible to later capture, predation, boat strike or other sources of injury and mortality. NMFS is now working to develop and implement bycatch reduction measures in all trawl fisheries in the Atlantic and Gulf of Mexico when and where sea turtle takes have occurred or where gear, time, location, fishing method, and other similarities exist between a particular trawl fishery and a trawl fishery where sea turtle takes have occurred. TEDs have been proven an effective method to minimize adverse effects related to sea turtle bycatch in the shrimp trawl fishery and, where applicable, in the summer flounder trawl fishery. While TEDs have potential as a bycatch reduction device for other trawl fisheries, differences in trawl designs and fishing methods may necessitate modifications or adjustments to the design of existing TEDs before they can be applied in other trawl fisheries. Testing is necessary to ensure that feasible TED designs for specific fisheries still accomplish the desired sea turtle bycatch reduction goals and to determine the TED's impact on target catch retention. It is possible that TEDs may not be feasible for some trawl fisheries. In the event that TEDs are not a viable option, other management measures such as tow time restrictions and time/area closures may need to be considered. Given these issues, NMFS anticipates a phased approach to implementation of any regulations to address sea turtle bycatch in trawl fisheries as the information needed to support measures in each individual trawl type becomes available.

The incidental take of sea turtles in certain trawl fisheries has been documented in the Gulf of Mexico and Atlantic. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206. The incidental taking of threatened sea turtles during shrimp or summer flounder trawling is exempted from the taking prohibition of section 9 of the ESA if the conservation measures specified in the sea turtle conservation regulations (50 CFR 223.206(d)) are followed. The conservation regulations require most shrimp trawlers and summer flounder trawlers operating in the southeastern United States (Atlantic Area and Gulf Area) to have a NMFS-approved TED installed in each net that is rigged for fishing to provide for the escape of sea turtles. TEDs currently approved by NMFS include single-grid hard TEDs and hooped hard TEDs conforming to a generic description, two types of special hard TEDs (the flounder TED and the weedless TED), and one type of soft TED (the Parker soft TED).

TEDs have an escape opening, usually covered by a webbing flap, that allows sea turtles to escape from trawl nets. To be approved for use by NMFS, a TED design must be shown to be 97 percent effective in excluding sea turtles during experimental TED testing. TEDs must meet generic criteria based upon certain parameters of TED design, configuration, and installation, including height and width dimensions of the TED opening through which the turtles escape.

In order to allow the release of leatherback and large loggerhead sea turtles, NMFS required the use of large escape openings in the shrimp fishery in February 2003 (68 FR 8456; February 21, 2003). The February 2003 regulations required the use of either the double cover flap TED, a TED with a minimum opening of 71 inch (180 cm) straight-line stretched mesh, or the Parker soft TED with a minimum 96–inch (244–cm) opening in offshore waters (from the COLREGS demarcation line seaward) and in all inshore waters off of Georgia and South Carolina; and required a TED with a minimum opening of 44 inch (112 cm) straight-line stretched mesh with a 20 inch (51 cm) vertical taut height in all inshore waters (from the COLREGS Demarcation line landward) except for the inshore waters of Georgia and South Carolina. At this time, the large-opening TED is only required in the shrimp trawl fishery.

*Summer Flounder Fishery*

Since 1992, all vessels using bottom trawls to fish for summer flounder in specific times and areas off Virginia and North Carolina have been required to use NMFS-approved TEDs in their nets (57 FR 57358, December 4, 1992; 50 CFR 223.206(d)(2)(iii)). Currently, the escape opening requirements for the flounder TED are ≤35 inches (≤89 cm) in width and ≤12 inches (≤30 cm) in height (50 CFR 223.207(b)(1)). Although the February 2003 final rule (68 FR 8456) to require the larger opening in the shrimp trawl fishery did not require vessels in the summer flounder trawl fishery to use the larger escape opening sizes, the rule stated NMFS was evaluating the need for such restrictions in this fishery. The smaller opening currently used in this fishery is insufficient to allow the escapement of leatherback sea turtles and larger loggerhead and green sea turtles. The larger opening TEDs have passed the NMFS testing criteria for turtle escapement and NMFS has conducted testing of the larger opening in the Mid-Atlantic summer flounder trawl fishery since 2003.

NMFS is currently considering an option to modify TED regulations in the summer flounder trawl fishery to require a larger escape opening. The larger escape opening would have a 142–inch (361–cm) circumference with a corresponding 71–inch (180–cm) straight line stretched measurement. This option is expected to decrease escape times for all turtles and allow for the release of leatherbacks and all large loggerhead and green sea turtles. The larger opening would be consistent with sea turtle conservation measures currently in place in the shrimp trawl fishery.

*Whelk and Calico Scallop Trawl Fisheries*

The whelk trawl fishery originally developed off the South Carolina coast during 1977 and the spring of 1978 as an alternative fishery during closures in the shrimp season. Trawling for knobbed and channeled whelk typically occurs from mid-February through mid-April. Currently, less than 35 commercial fishermen actively participate in the fishery with five or more trips each year, although as many as 100 permits have been issued by the Georgia Department of Natural Resources (GDNR).

Due to documented sea turtle interactions within the fishery, NMFS evaluated potential TED designs for the fishery in 2000–2001. The whelk TED was developed in cooperation with GDNR and the University of Georgia Marine Extension Service in an effort to provide nearshore whelk fishermen with a TED that would allow the target species to pass through the TED frame and be retained as catch. The whelk TED passed the NMFS testing protocol in 2001. The whelk TED design is similar to the top-opening flounder TED used along the southeastern Atlantic coast during the winter months, featuring enlarged openings at the bottom of the frame. NMFS is currently considering an option to require the use of TEDs in the whelk trawl fishery.

Currently, GDNR requires the use of this TED in the whelk trawl fishery in Georgia State waters; however, some whelk trawling does occur in Federal waters.

The calico scallop fishery originally developed in North Carolina in the early 1960s, but the focus of the fishery shifted to areas off Florida during the early 1970s. Calico scallop trawls are typically small (e.g., headrope length <40 feet) and are towed for short periods of time (e.g., 15 minutes). The scallop beds off Florida stretch from Jacksonville to Ft. Pierce in 60 to 240 feet (18 to 73 m) of water. Due to large fluctuations of calico scallop abundance and patchy distribution, landings within the fishery are extremely sporadic. Approximately 25 vessels are thought to currently be operating in the fishery. Similar to the whelk fishery, the calico scallop fishery requires a TED that allows the target species to pass through the TED frame and be retained as catch. Therefore, NMFS has determined that a hard TED, similar in design to the whelk TED, could be installed in calico scallop trawls. NMFS is currently considering an option to require the use of TEDs in the calico scallop trawl fishery. TED use in this fishery would be a new requirement.

*Mid-Atlantic Scallop Trawl Fishery*

The U.S. Atlantic sea scallop fishery is conducted in the Gulf of Maine, on Georges Bank, and in the Mid-Atlantic offshore region southward to North Carolina. The commercial fishery for sea scallops occurs year round, and is primarily conducted using dredges and otter trawls. Approximately 10 percent of landings in the sea scallop fishery are from vessels using trawl gear, primarily in the Mid-Atlantic. Fishing by these vessels often occurs during the summer when other species (e.g., summer flounder) are not available (NMFS 2003). Trawl fishermen participating in the sea scallop fishery primarily use either trawls designed specifically for the sea scallop fishery or flounder trawls. Sea turtle takes have been observed in the sea scallop trawl fishery.

In 2005 and 2006, NMFS tested the feasibility of TED use in the sea scallop trawl fishery. The sea scallop TED tested is a whelk TED that has been modified to prevent chafing of the gear. This TED design passed the NMFS testing criteria for sea turtle escapement. Initial results suggest that TED use in the sea scallop trawl fishery is feasible. NMFS is currently considering an option to require the use of TEDs in the Mid-Atlantic sea scallop trawl fishery. TED use in this fishery would be a new requirement.

*Flynet Fishery*

Flynets are high profile trawls fished just off the bottom and range from 80 to 120 feet (24.4 to 36.6 m) in width, with wing mesh sizes of 16 to 64 inches (41 to 163 cm). The flynet fishery is a multi-species fishery that operates along the East Coast of the United States. One component of the fishery operates inside of 180 feet (55 m) from North Carolina to New Jersey, and targets Atlantic croaker, weakfish, and other finfish species. Another component of the flynet fishery operates outside of 180 feet (55 m) from the Hudson Canyon off New York, south to Hatteras Canyon off North Carolina. Target species for the deeper-water component of the fishery include bluefish, Atlantic mackerel, squid, black sea bass, and scup. Sea turtle takes have been documented in this fishery.

TEDs for the flynet fishery have been in development since 1999. Two semi-rigid TED designs for use within the flynet fishery have been tested and passed the NMFS testing protocol when rigged with a top-opening escape panel. NMFS is currently considering an option to require the use of TEDs in the flynet fishery. TED use in this fishery would be a new requirement.

*Movement of the Summer Flounder Fishery-Sea Turtle Protection Area Boundary*

Any summer flounder trawler that operates within the Summer Flounder Fishery-Sea Turtle Protection Area must utilize TEDs in its nets (50 CFR 223.206(d)(2)(iii)). Currently, this protection area is bounded on the north by a line extending off Cape Charles, Virginia, on the south by a line extending from the South Carolina-North Carolina boundary, and seaward by the Exclusive Economic Zone boundary. Vessels are exempted from the TED requirement north of Oregon Inlet, North Carolina, from January 15 through March 15, annually, when take of sea turtles by summer flounder trawling is not expected.

From 1994–2004, observers documented takes in summer flounder and other Mid-Atlantic bottom otter trawl fisheries in areas and times when TEDs are not required in the summer flounder trawl fishery (Murray 2006). Murray (2006) estimated sea turtle bycatch in the Mid-Atlantic bottom otter trawl fisheries. Murray found that, based on the analysis, the likelihood of interacting with a turtle depends on the time and area in which fishing occurs rather than the fish species being targeted. While incidental captures of sea turtles occurred throughout the year, Murray (2006) demonstrated that most interactions were confined to certain bathymetric and thermal regimes. Because of documented takes of sea turtles north of the current line due to the overlap in distribution of sea turtles and trawl gear, NMFS is considering moving the northern boundary of the Summer Flounder Fishery-Sea Turtle Protection Area farther north to reduce sea turtle bycatch in the summer flounder fishery. Additionally, NMFS is considering expanding the TED requirements to other trawl fisheries in the Mid-Atlantic, which currently do not have any TED requirements within this geographic area.

## Conclusion

NMFS is seeking advanced public input on potential measures to reduce sea turtle bycatch in Atlantic trawl fisheries and in Gulf of Mexico trawl fisheries where sea turtle conservation measures do not currently apply. NMFS is also seeking information on sea turtle interactions in Atlantic and Gulf of Mexico trawl fisheries. NMFS wants to improve the performance of TEDs to protect large turtles, reduce sea turtle bycatch in additional trawl fisheries with sea turtle interactions, and streamline and simplify the regulations. NMFS is also soliciting comment on whether and how far north to move the northern boundary of the Summer Flounder Fishery-Sea Turtle Protection Area, as well as on other viable ideas or concepts to reduce sea turtle bycatch in trawl fisheries. Measures may include new TED designs for various trawl fisheries, or other technologies and approaches that may minimize or mitigate sea turtle interactions in trawl fisheries.

## Literature Cited

Murray, K.T. 2006. Estimated Average Annual Bycatch of Loggerhead Sea Turtles (*Caretta caretta*) in U.S. Mid-Atlantic Bottom Otter Trawl Gear, 1996–2004. U.S. Department of Commerce, Northeast Fisheries Science Center Reference Document 06–19; 26 pp.

This advance notice of proposed rulemaking has been determined to be not significant for E.O. 12866 purposes.

Dated: February 12, 2007.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

[FR Doc. E7–2719 Filed 2–14–07; 8:45 am]

BILLING CODE 3510–22–S

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 665**

**[I.D. 020107A]**

**RIN 0648–AT55**

## Fisheries in the Western Pacific; Western Pacific Pelagic Fisheries; Management Measures for Bigeye Tuna Pacific-Wide and Yellowfin Tuna in the Western and Central Pacific Ocean

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

**ACTION:** Notice of availability of Fishery Management Plan (FMP) amendment; request for comments.

**SUMMARY:** NMFS announces the availability, for public review and comment, of proposed Amendment 14 to the FMP for Pelagic Fisheries of the Western Pacific Region (Pelagics FMP). The amendment responds to the Secretary of Commerce's determination that overfishing is occurring on bigeye tuna (*Thunnus obesus*) Pacific-wide, and on yellowfin tuna (*Thunnus albacares*) in the western and central Pacific Ocean (WCPO). The measures in the amendment are designed to end overfishing of bigeye tuna Pacific-wide and yellowfin tuna in the WCPO, as required under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Amendment 14 would establish Federal permitting and reporting requirements for all U.S. Hawaii-based small boat commercial pelagic fishermen. Internationally, Amendment 14 would establish for the Western Pacific Fishery Management Council (Council) an internal protocol related to its role in managing pelagic fish stocks that are managed internationally, including its participation in U.S. delegations to meetings of regional fishery management organizations (RFMOs). This amendment also recommends that NMFS and the Department of State work through the RFMOs to immediately end overfishing of bigeye tuna Pacific-wide and WCPO yellowfin tuna, focusing on fisheries with the greatest impact on Pacific bigeye tuna and WCPO yellowfin tuna, i.e., longline and purse seine fisheries.

**DATES:** Comments on the amendment must be received by April 16, 2007.

**ADDRESSES:** Comments on Pelagics Amendment 14, identified by AT55Tuna, may be sent to any of the following addresses:

- E-mail: *AT55Tuna@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier ''AT55Tuna.'' Comments sent via e-mail, including all attachments, must not exceed a 10 megabyte file size.
- Federal e-Rulemaking portal: *www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814–4700.

An Environmental Assessment (EA) was prepared for this amendment. Copies of the Pelagics FMP and Amendment 14 (containing the EA) may be obtained from Kitty M. Simonds, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

**FOR FURTHER INFORMATION CONTACT:** Bob Harman, NMFS PIR, 808–944–2271.

**SUPPLEMENTARY INFORMATION:** Pelagics FMP Amendment 14, developed by the Council, has been submitted to NMFS for review under the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq*. This notice announces that the amendment is available for public review and comment for 60 days. NMFS will consider public comments received during the comment period in determining whether to approve, partially approve, or disapprove Amendment 14.

On December 15, 2004, NMFS notified the Council that overfishing was occurring on bigeye tuna Pacific-wide. On March 16, 2006, NMFS notified the Council that overfishing was occurring on western and central Pacific Ocean (WCPO) yellowfin tuna. As required by the MSA, the Council was requested to take appropriate action to end overfishing. Pelagics FMP Amendment 14 contains the Council's recommended actions to end overfishing for both stocks.

Bigeye and yellowfin tuna are highly migratory species, and occur in the waters of multiple nations and the high seas. Consequently, they are targeted by fishing fleets of several nations, including the United States of America. Until recently, the majority of bigeye tuna in the Pacific Ocean was caught by longliners, primarily for the Japanese sashimi market. During the last 10 years, however, catches of bigeye tuna by purse seiners have increased considerably. Purse seine-caught bigeye tuna are taken primarily when purse seiners targeting skipjack and yellowfin tuna set their nets around fish aggregating devices (FADs). Smaller amounts are also taken by handline and troll vessels. Yellowfin tuna in the WCPO are caught primarily by purse seiners. WCPO longline, pole-and-line, handline and troll fisheries also catch substantial amounts of yellowfin tuna.

According to the guidelines for National Standard 1 of the Magnuson-Stevens Act (50 CFR 600.310), fishery stock status is assessed with respect to two status determination criteria, one of which is used to determine whether a stock is ''overfished,'' and the second of which is used to determine if the stock is subject to ''overfishing.'' A stock is considered to be overfished if its biomass falls below the minimum stock size threshold (MSST). Overfishing means that fishing is occurring at a rate or level that jeopardizes the capacity of a stock or stock complex to produce maximum sustainable yield (MSY) on a continuing basis. When a stock is not in an overfished condition, the maximum fishing mortality threshold (MFMT) is equal to the fishing mortality associated with MSY ($F_{MSY}$). The latest stock assessments for bigeye tuna in the Pacific and WCPO yellowfin tuna have concluded that the biomass of neither stock is below their respective MSST. However, the assessments used as a basis for the overfishing determinations (conducted in 2003 and 2004 for Pacific bigeye tuna and 2005 and 2006 for WCPO yellowfin tuna) indicated that the then-current level of fishing mortality did exceed the stocks' respective MFMTs. Consequently, NMFS determined that overfishing was occurring on the Pacific-wide stock of bigeye tuna and on the WCPO stock of yellowfin tuna.

At its 133rd meeting in June, 2006, the Council took action to recommend several management measures that would be established by Pelagics FMP Amendment 14. The Council's management recommendations would constitute a foundation plan for the Council, NMFS, and the Department of State to end overfishing of bigeye tuna Pacific-wide and WCPO yellowfin tuna.

Pelagics FMP Amendment 14 calls for NMFS to enhance data quality for U.S. Hawaii-based small boat pelagic fisheries through mandatory Federal permits and data-collection programs (logbooks) for commercial small-boat fisheries, and improved surveys and voluntary reporting for recreational fisheries.

Pelagics FMP Amendment 14 acknowledges that the Council recommended a control date of June 2, 2005, for entry into the small boat commercial pelagic fisheries in U.S. EEZ waters around Hawaii. On August

15, 2005, NMFS published a notice of this control date (70 FR 47781). The amendment also acknowledges that the Council recommended a control date of June 2, 2005, for entry into domestic longline and purse seine fisheries in U.S. EEZ waters in the western Pacific. On August 15, 2005, NMFS published a notice of this control date (70 FR 47782). These control dates were implemented to notify the public that future participation in these fisheries was not guaranteed if the Council and NMFS developed and implemented limited access programs for the fisheries. Establishment of these control dates does not, however, commit the Council or NMFS to any particular management regime or criteria for entry into these fisheries.

The international scope of the overfishing situation, and measures to meaningfully address the problem, must be addressed through RFMOs, such as the Inter-American Tropical Tuna Commission and Western and Central Pacific Fisheries Commission. Internationally, Pelagics FMP Amendment 14 contains several proposed non-regulatory measures and recommendations, including the establishment for the Council an internal protocol related to its role in managing pelagic fish stocks that are managed internationally (including steps the Council would take to monitor the status of internationally managed fish stocks, participate in U.S. delegations in meetings with RFMOs, and follow the activities of RFMOs). The Council also recommends that NMFS and the Department of State work through RFMOs to immediately end overfishing of bigeye tuna Pacific-wide and WCPO yellowfin tuna, focusing on fisheries with the greatest impact on Pacific bigeye tuna and WCPO yellowfin tuna, i.e., longline and purse seine fisheries. Specific international recommendations include plans for reducing longline fishing capacity, reducing purse seine fishing capacity and restrictions on the use of FADs while purse seine fishing, establishment and gradual reduction of national quotas, and other measures.

Bigeye tuna is also a management unit species under the Pacific Fishery Management Council's Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP). The Pacific Council has worked with the Western Pacific Council to develop a response to the determination of overfishing on bigeye tuna Pacific-wide. Amendment 1 to the Pacific Council's HMS FMP is consistent with relevant elements of Pelagics FMP Amendment 14 to end overfishing of bigeye tuna.

Public comments are being solicited on Pelagics FMP Amendment 14. A proposed rule that would implement Amendment 14 may be published in the **Federal Register** for public comment, following evaluation by NMFS under the Magnuson-Stevens Act procedures, and other applicable laws. Public comments on the proposed rule must be received by the end of the comment period on Amendment 14 to be considered in the approval/disapproval decision for the amendment. All comments received by the end of the comment period for Amendment 14, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision; comments received after that date will not be considered in the approval/disapproval decision for the FMP/amendment. To be considered, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

Dated: February 09, 2007.

**James P. Burgess,**

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

[FR Doc. E7–2677 Filed 2–14–07; 8:45 am]

BILLING CODE 3510–22–S

# Notices

Federal Register

Vol. 72, No. 31

Thursday, February 15, 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.

## ADVISORY COUNCIL ON HISTORIC PRESERVATION

### Final Advisory Council on Historic Preservation Policy Statement on Affordable Housing and Historic Preservation

**AGENCY:** Advisory Council on Historic Preservation.

**ACTION:** Notice of Final Policy Statement on Affordable Housing and Historic Preservation.

**SUMMARY:** The Advisory Council on Historic Preservation (ACHP) adopted a ''Policy Statement on Affordable Housing and Historic Preservation,'' on November 9, 2006.

**DATES:** The final policy went into effect upon adoption on November 9, 2006.

**FOR FURTHER INFORMATION CONTACT:** Blythe Semmer, 202–606–8505. Electronic mail: *affordablehousing@achp.gov*

**SUPPLEMENTARY INFORMATION:** The Advisory Council on Historic Preservation (ACHP) is an independent Federal agency, created by the National Historic Preservation Act, that promotes the preservation, enhancement, and productive use of our Nation's historic resources, and advises the President and Congress on national historic preservation policy.

Section 106 of the National Historic Preservation Act (Section 106), 16 U.S.C. 470f, requires Federal agencies to consider the effects of their undertakings on historic properties and provide the ACHP a reasonable opportunity to comment with regard to such undertakings. ACHP has issued the regulations that set forth the process through which Federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800.

### I. Background

In 1995, the ACHP adopted its first ''Policy Statement on Affordable Housing and Historic Preservation'' (1995 Policy) to serve as a guide for federal agencies and State Historic Preservation Offices (SHPOs) when making decisions about affordable housing projects during review of federal undertakings under Section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. 470f (Section 106), and its implementing regulations, ''Protection of Historic Properties'' (36 CFR Part 800). The ACHP adopted the policy to guide federal agencies and SHPOs at a time when conflicts between the dual goals of providing affordable housing and preserving historic properties was making the achievement either more difficult. After a decade, the provision of affordable housing has developed into an even more pressing national concern, prompting a reconsideration of the principles in the policy statement.

In 2005, the ACHP Chairman convened an Affordable Housing Task Force to review this policy statement in light of changes to the Section 106 regulations in 2001 and 2004 and other ACHP initiatives. Members of the Task Force included the U.S. Department of Agriculture, U.S. Department of the Interior, the National Conference of State Historic Preservation Officers (NCSHPO), the National Trust for Historic Preservation, citizen member, Emily Summers, and expert member, John G. Williams, III, Chair. The U.S. Department of Housing and Urban Development (HUD) participated as an ACHP observer.

The Task Force developed the Policy Statement with input from the public. An online survey of state and local government officials and affordable housing providers about their awareness of and use of the 1995 Policy was conducted in August-September 2005. Links to the survey were distributed to approximately 12,000 individuals representing State and Tribal Historic Preservation Officers, local historic preservation commission members, Certified Local Government staff, HUD staff and grantees, state community development agency staffs, and affordable housing providers.

Following development of a draft, the ACHP posted the proposed revised draft policy statement in the **Federal Register** on July 17, 2006 (71 FR 40522), and comments from the public were accepted through August 16, 2006. Information about the July 17, 2006, **Federal Register** notice was distributed by members of the Task Force to their respective constituencies through electronic LISTSERVs including communities receiving HOME program and Community Development Block Grant funds from HUD, members of the National Trust for Historic Preservation's Forum, and members of the NCSHPO. Additionally, the ACHP provided information about the comment period directly to Tribal Historic Preservation Officers, the National Alliance of Tribal Historic Preservation Officers, and over a dozen organizations with an interest in local community development activities and the provision of affordable housing, as well as on the ACHP Web site.

Comments on the new policy statement generally supported the revision effort. Specific comments frequently requested detailed guidance on applying the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (Secretary's Standards) to affordable housing projects. While the Task Force recognized that specific comments on the application of the Secretary's Standards were outside the scope of its mandate, additional language highlighting the distinction between review for the Historic Rehabilitation Tax Credit and Section 106 compliance was included in the policy statement. Commenters further requested the development of case studies that would illustrate the successful integration of historic preservation and affordable housing on a variety of topics including accessibility, use of modern building materials, and lead paint abatement requirements. It is anticipated that such case studies will become an important component of materials developed by the ACHP and Task Force in implementing the revised policy statement.

Responsiveness to local conditions emerged as a recurring theme in the Task Force's deliberations. Members recognized that affordable housing can include housing for a specific constituency, such as Native American housing programs. Federal assistance for affordable housing can also be directed to specific geographic areas with distinctive physical characteristics. Just as affordable housing programs serve

unique local needs, so should historical preservation reviews, since ''one-size-fits-all'' approaches are unlikely to produce a successful balance for these projects. Given our national diversity, the majority of Task Force members embraced and encouraged creativity in local solutions while federal agency members emphasized the value of consistency and predictability.

The importance of developing and utilizing tailored guidance also shaped the Task Force's deliberations and its preparation of a set of recommendations for how the policy statement can be put into practice. Direction from both the ACHP and federal agencies was seen as critical to achieving the goals of the Task Force, but members recognized that private and non-profit partners with experience piecing together the resources required for planning and funding affordable housing projects could provide examples of success stories and best practices.

The policy statement, which represents the conclusion of the research and public outreach efforts of the Affordable Housing Task Force and the deliberation of its members, was adopted by the ACHP on November 9, 2006. The final text of the policy statement is provided in Section II of this notice.

## II. Text of the Policy

The following is the text of the final policy statement:

### Advisory Council on Historic Preservation (ACHP) Policy Statement on Affordable Housing and Historic Preservation

Historic buildings provide affordable housing to many American families. Affordable housing rehabilitation can contribute to the ongoing vitality of historic neighborhoods as well as of the businesses and institutions that serve them. Rehabilitation can be an important historic preservation strategy. Federal agencies that help America meet its need for safe, decent, and affordable housing, most notably the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture's (USDA's) Rural Development agency, often work with or near historic properties.

The ACHP considers affordable housing for the purposes of this policy to be Federally-subsidized, single- and multi-family housing for individuals and families that make less than 80% of the area median income. It includes, but is not limited to, Federal assistance for new construction, rehabilitation, mortgage insurance, and loan guarantees.

National policy encompasses both preserving historic resources and providing affordable housing. The National Historic Preservation Act (NHPA) of 1966, as amended, directs the Federal government to foster conditions under which modern society and prehistoric and historic resources can exist in productive harmony and ''fulfill the social, economic, and other requirements of present and future generations.'' Similarly, affordable housing legislation like the Cranston-Gonzalez Act of 1990, which aims to ''expand the supply of decent, safe, sanitary, and affordable housing,'' anticipates historic preservation as a tool for meeting its goals. Actively seeking ways to reconcile historic preservation goals with the special economic and social needs associated with affordable housing is critical in addressing one of the nation's most pressing challenges.

Providing affordable housing is a growing national need that continues to challenge housing providers and preservationists.

In issuing this policy statement, the ACHP, consistent with Section 202 of the NHPA, offers a flexible approach for affordable housing projects involving historic properties. Section 106 of the National Historic Preservation Act Section 106 requires Federal agencies to take into account the effects of their actions on historic properties and afford the ACHP a reasonable opportunity to comment. This policy provides a framework for meeting these requirements for affordable housing.

Federal tax incentives provide opportunities for historic preservation and affordable housing to work together, including the Low-Income Housing Tax Credit and the Historic Rehabilitation Tax Credit. Projects taking advantage of the Historic Rehabilitation Tax Credit must be reviewed by the National Park Service (NPS) for adherence to the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitatinq Historic Buildinqs* (Secretary's Standards) in a separate and distinct process. Review of these projects is more comprehensive than Section 106 review and necessitates early coordination with NPS and the State Historic Preservation Officer (SHPO) since work must adhere to the Secretary's Standards to obtain the tax credit. Nonetheless, coordination with Section 106 consultation and these reviews frequently occurs.

In an effort to better focus Section 106 reviews for affordable housing, the ACHP encourages Federal and State agencies, SHPOs, Tribal Historic Preservation Officers (THPOs), local governments, housing providers, and other consulting parties to use the following principles in Section 106 consultation.

### Implementation Principles

I. Rehabilitating historic properties to provide affordable housing is a sound historic preservation strategy.
II. Federal agencies and State and local government entities assuming HUD's environmental review requirements are responsible for ensuring compliance with Section 106.
III. Review of effects in historic districts should focus on exterior features.
IV. Consultation should consider the overall preservation goals of the community.
V. Plans and specifications should adhere to the Secretary's Standards when possible and practical.
VI. Section 106 consultation should emphasize consensus building.
VII. The ACHP encourages streamlining the Section 106 process to respond to local conditions.
VIII. The need for archeological investigations should be avoided.

### I. Rehabilitating Historic Properties to Provide Affordable is a Sound Historic Preservation Strategy.

Continued investment in historic buildings through rehabilitation and repair for affordable housing purposes and stabilization of historic districts through the construction of infill housing should be recognized as contributing to the broad historic preservation goals of neighborhood revitalization and retention.

### II. Federal Agencies and State and Local Government Entities Assuming HUD's Environmental Review Requirements Are Responsible for Ensuring Compliance With Section 106.

Federal agencies, notably USDA Rural Development and HUD, provide important funding for affordable housing. These Federal agencies, and funding recipients assuming HUD's environmental review requirements, must comply with Section 106. SHPOs, THPOs, and local historic preservation commissions provide expert opinions and advice during consultation. Consultation should be concluded and outcomes recorded prior to the expenditure of funds.

### III. Review of Effects in Historic Districts Should Focus on Exterior Features.

Section 106 review of effects focuses on the characteristics that qualify a property for listing in the National Register of Historic Places. The significance of historic districts is typically associated with exterior features. Accordingly, unless a building

is listed or considered eligible for listing in the National Register as an individual property or specific interior elements contribute to maintaining a district's character, review under Section 106 should focus on proposed changes to the exterior. In all cases, identifying the features that qualify a property for inclusion in the National Register defines the scope of Section 106 review.

**IV. Consultation Should Consider the Overall Preservation Goals of the Community.**

When assessing, and negotiating the resolution of, the effects of affordable housing projects on historic properties, consultation should focus not simply on individual buildings but on the historic preservation goals of the broader neighborhood or community. If the affected historic property is a historic district, the agency official should assess effects on the historic district as a whole. Proposals to demolish historic properties for new replacement housing should be based on background documentation that addresses the broader context of the historic district and evaluates the economic and structural feasibility of rehabilitation that advances affordable housing.

**V. Plans and Specifications Should Adhere to the Secretary's Standards When Possible and Practical.**

Secretary's Standards outline a consistent national approach to the treatment of historic properties that can be applied flexibly in a way that relates to local character and needs. Plans and specifications for rehabilitation, new construction, and abatement of hazardous conditions in affordable housing projects associated with historic properties should adhere to the recommended approaches in the Secretary's Standards when possible and practical.

Projects taking advantage of the Historic Rehabilitation Tax Credit must be reviewed by the National Park Service for adherence to the Secretary's Standards in a separate and distinct process that benefits from early coordination. The ACHP recognizes that there are instances when the Secretary's Standards cannot be followed and that Section 106 allows for the negotiation of other outcomes.

**VI. Section 106 Consultation Should Emphasize Consensus Building.**

Section 106 review strives to build consensus with affected communities in all phases of the process. Consultation with affected communities should be on a scale appropriate to that of the undertaking. Various stakeholders, including community members and neighborhood residents, should be included in the Section 106 review process as consulting parties so that the full range of issues can be addressed in developing a balance between historic preservation and affordable housing goals.

**VII. The ACHP Encourages Streamlining the Section 106 Process To Respond to Local Conditions.**

The ACHP encourages participants to seek innovative and practical ways to streamline the Section 106 process that respond to unique local conditions related to the delivery of affordable housing. Programmatic Agreements often delegate the Section 106 review role of the SHPO to local governments, particularly where local preservation ordinances exist and/or where qualified preservation professionals are employed to improve the efficiency of historic preservation reviews. Such agreements may also target the Section 106 review process to local circumstances that warrant the creation of exempt categories for routine activities, the adoption of ''treatment and design protocols'' for rehabilitation and new infill construction, and the development of design guidelines tailored to a specific historic district and/or neighborhood.

**VIII. The Need for Archaeological Investigations Should Be Avoided.**

Archaeological investigations should be avoided for affordable housing projects limited to rehabilitation and requiring minimal ground disturbance.

**Authority:** 16 U.S.C. 470j

Dated: February 12, 2007.

**Ralston Cox,**

*Acting Executive Director.*

[FR Doc. 07–703 Filed 2–14–07; 8:45 am]

BILLING CODE 4310–K6–M

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting

**AGENCY:** Research, Education, and Economics, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, the United States Department of Agriculture announces a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board. This meeting is open to the general public.

**DATES:** The National Agricultural Research, Extension, Education, and Economics Advisory Board will meet March 7–9, 2007.

The public may file written comments before or up to two weeks after the meeting with the contact person.

**ADDRESSES:** The meeting will take place at the Mandarin Oriental Hotel, 1330 Maryland Avenue, SW., Washington, DC 20024. Written comments from the public may be sent to the Contact Person identified in this notice at: The National Agricultural Research, Extension, Education, and Economics Advisory Board; Research, Education, and Economics Advisory Board Office, Room 344–A, Jamie L. Whitten Building, United States Department of Agriculture, STOP 2255, 1400 Independence Avenue, SW., Washington, DC 20250–2255.

**FOR FURTHER INFORMATION CONTACT:** Joseph A. Dunn, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board; telephone: (202) 720–3684; fax: (202) 720–6199; or e-mail: *JADunn@csrees.usda.gov.*

**SUPPLEMENTARY INFORMATION:** On Thursday, March 8, 2007, from 8 a.m.–5:30 p.m. the full Advisory Board Meeting will meet beginning with introductory remarks provided by the Chair of the Advisory Board, and the Under Secretary for Research, Education, and Economics (REE), USDA. This meeting will have two focus sessions, one on ''Farm Bill'' topics and the other on the subject of ''Food Safety and Human Health''. An evening session beginning at 6:30 p.m., and adjourning at 8:30 p.m. with a guest speaker who will present remarks on food safety. On Friday, February 9, 2006, the meeting will reconvene at 9 a.m. to hear recap highlights from the previous day's focus sessions followed by overall Board discussions. You will hear remarks from within and outside the USDA pertaining to the agency prospective on the individual topics. An opportunity for public comment will be offered after the meeting wrap-up. The Advisory Board Meeting will adjourn by 12 (noon).

Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the Board meeting (by close of business Friday, March 21, 2007). All statements will become a part of the official record of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file

for public review in the Research, Extension, Education, and Economics Advisory Board Office.

Done at Washington, DC this 9th day of February, 2007.

**Gale Buchanan,**

*Under Secretary, Research, Education, and Economics.*

[FR Doc. E7–2649 Filed 2–14–07; 8:45 am]

BILLING CODE 3410–22–P

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

### Request for Extension of a Currently Approved Information Collection; Receiving and Processing Applications

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is seeking comments from all interested individuals and entities on the revision and extension of currently approved information collection that supports the Direct Loan Program. The collection of information from loan applicants and commercial lenders is used to determine eligibility and financial feasibility when the applicant requests direct loan assistance.

**DATES:** Comments on this notice must be received on or before April 16, 2007 to be assured consideration.

**FOR FURTHER INFORMATION CONTACT:** Cathy Quayle, Senior Loan Officer, USDA, Farm Service Agency, Loan Making Division, 1400 Independence Avenue, SW., Stop 0522, Washington, DC 20250–0522; Telephone (202) 690–4018; *Electronic mail: cathy.quayle@wdc.usda.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Receiving and Processing Applications.

*OMB Control Number:* 0560–0178.

*Expiration Date of Approval:* September 30, 2007.

*Type of Request:* Extension of Currently Approved Information Collection.

*Abstract:* This information collected under OMB Control Number 0560–0178 is necessary to effectively administer the Direct Loan Program in accordance with the requirements of 7 CFR Part 1910 subpart A, as authorized by the Consolidated Farm and Rural Development Act (CONACT). The collected information is submitted to the Agency loan official by loan applicants and commercial lenders for use in making program eligibility and financial feasibility determinations as required by the CONACT.

*Estimate of Annual Respondent Burden:* Public reporting burden for this collection of information is estimated to average 1.66 hours per response.

*Respondents:* Individuals and entity farmers and commercial lenders.

*Estimated Number of Respondents:* 17,806.

*Estimated Number of Responses per Respondent:* 3.43.

*Estimated Total Annual Burden on Respondents:* 101,283.

*Comments are invited on the following:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information being collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. These comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Cathy Quayle, Senior Loan Officer, USDA Farm Service Agency, Loan Making Division, 1400 Independence Avenue, SW., STOP 0522, Washington, DC 20250–0522.

Comments will be summarized and included in the request for Office of Management and Budget approval of the information collection. All comments will also become a matter of public record.

Signed in Washington, DC, on February 9, 2007.

**Teresa C. Lasseter,**

*Administrator, Farm Service Agency.*

[FR Doc. E7–2666 Filed 2–14–07; 8:45 am]

BILLING CODE 3410–05–P

## DEPARTMENT OF AGRICULTURE

### Foreign Agricultural Service

### Trade Adjustment Assistance for Farmers

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Notice.

The Administrator, Foreign Agricultural Service (FAS), today accepted a petition filed by the California Avocado Commission representing California avocado producers for trade adjustment assistance. The Administrator will determine within 40 days whether or not increasing imports of avocados contributed importantly to a decline in domestic producer prices of 20 percent or more during the marketing period beginning November 1, 2005, and ending October 31, 2006. If the determination is positive, all producers who produce and market their avocados in California will be eligible to apply to the Farm Service Agency for no cost technical assistance and for adjustment assistance payments.

**FOR FURTHER INFORMATION CONTACT:** Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers, FAS, USDA, (202) 720–2916, e-mail: *trade.adjustment@fas.usda.gov.*

Dated: January 26, 2007.

**Michael W. Yost,**

*Administrator, Foreign Agricultural Service.*

[FR Doc. E7–2627 Filed 2–14–07; 8:45 am]

BILLING CODE 3410–10–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Revision of Land Management Plan for the George Washington National Forest, Virginia and West Virginia

**AGENCY:** Forest Service USDA.

**ACTION:** Notice of initiation to revise the George Washington National Forest Land Management Plan.

**SUMMARY:** The Forest Service is revising the Land Management Plan (hereafter referred to as Forest Plan) for the George Washington National Forest (GWNF). The notice provides:

1. A summary of the need to change the Forest Plan;
2. An estimated schedule for the planning process;
3. A list of documents available for review and how to get them;
4. How the public can participate in the planning process;
5. How the public can comment on the need for change;
6. Who to contact for more information.

**DATES:** Revision formally begins with publication of this notice in the **Federal Register**. A series of public meetings to discuss the need for change will begin in March, 2007. The dates, times and locations of these meetings will be posted at our internet Web site: *http://*

*www.fs.fed.us/r8/gwj/.* This information can also be obtained from the contact information below. More detailed information on the proposed schedule is in the **SUPPLEMENTARY INFORMATION** Section.

**ADDRESSES:** Written comments on the need for change will also be accepted. Send written comments to George Washington Plan Revision, George Washington & Jefferson National Forests, 5162 Valleypointe Parkway, Roanoke, Virginia 24019–3050. Electronic comments should include ''GW Plan Revision'' in the subject line and sent to: *comments-southern-georgewashington-jefferson@fs.fed.us*

For further information, mail correspondence to George Washington Plan Revision, George Washington & Jefferson National Forests, 5162 Valleypointe Parkway, Roanoke, Virginia 24019–3050. Additional information on the GWNF Forest Plan is available at: *http://www.fs.fed.us/r8/gwj/.*

**FOR FURTHER INFORMATION CONTACT:** Dave Plunkett, Planning Team Leader, Ken Landgraf, Planning Staff Officer, or JoBeth Brown, Public Affairs Officer, George Washington & Jefferson National Forests, (540)–265–5100.

**SUPPLEMENTARY INFORMATION:**

## The Need for Change

The GWNF Forest Plan was last revised in 1993. Planning regulations require that plans be revised at least every 15 years. the 1993 revision was a major effort that involved the participation of many stakeholders. The purpose of the current revision is to examine management direction that needs to change and determine how best to make those changes. The Forest Service has drafted a Comprehensive Evaluation Report. This report is based on monitoring information that has been collected since 1993. The report describes the current social, economic and ecological conditions and trends on the Forest. Based on this information, the Forest Service is proposing a number of changes to the current plan. The proposed changes include the following:

—Follow the 2005 Planning regulations for required components of a Forest Plan
—Change roadless area management to address current policy
—Clarify management of old growth
—Modify riparian area management
—Evaluate if additional potential wilderness areas exist
—Address the use of lightning-ignited wild fire and the level of prescribed burning
—Utilize, where appropriate, new management direction from the 2004 Jefferson Forest Plan
—Examine any needs for additional special biological areas.

## Planning Schedule

After initiation of the planning process, the Forest Service will hold a series of public meetings to discuss the need for change and the Draft Comprehensive Evaluation Report. At the end of these collaborative efforts (around May 2007), the Forest Supervisor will determine which issues will be carried forward for further analysis in the revision process.

Additional public meetings will then be held through the summer of 2007 to discuss development of the Forest Plan components in response to the identified needs for change. In November of 2007 the Forest Service expects to release a Proposed Forest Plan for public review and comment. A notice will be published in the **Federal Register** that will begin a 90-day comment period on the Proposed Forest Plan. The Forest Service will review the comments and then make any appropriate changes to the Proposed Forest Plan. Another notice will then be published in the **Federal Register** to begin a 30-day objection period. This is anticipated to be published around July of 2008. After any objections are resolved, the Forest Plan will be approved by the Forest Supervisor.

## Documents Available for Review

A number of documents are available for review. These are available at the Web site *http://www.fs.fed.us/r8/gwi/.* Additional documents will be added to this site throughout the planning process. Hard copies or CD–ROM versions of the documents can be obtained from the addresses listed above. The current documents include:

—Draft Comprehensive Evaluation Report
—Current (1993) George Washington NF Land Management Plan
—Initial Version of Proposed Forest Plan.

## How the Public Can Participate in the Planning Process

The planning process will emphasize those things that need to change from the 1993 Forest Plan. The focus of the current planning regulations is on establishing a collaborative approach to planning. Therefore, the best opportunity for dialogue is to participate in the discussions at the various public meetings to be held throughout the process. These meetings will all be announced on the GWNF Web site. In addition, there will be opportunities to provide written comments on draft documents and analyses as they are prepared. A formal comment opportunity will be provided when the Proposed Forest Plan is completed.

Only parties that participate in the planning process through the submission of written comments can submit an objection pursuant to 36 CFR 219.13(a).

## How the Public Can Comment on the Need for Change

A series of public meetings will be held beginning in March of 2007 to discuss the need for change. The dates, times and locations of these meetings are posted on the Forest Web site or can be obtained from the Contacts named above. In addition, written or electronic comments can be submitted to the previously identified addresses.

## Responsible Official

The Forest Supervisor, George Washington & Jefferson National Forests, is the Responsible Official (36 CFR 219.2(b)(1)).

Authority: 36 CFR 219.9(b)(2)(i), 70 FR 1023, January 5, 2005.

Dated: February 8, 2007.

**Maureen Hyzer,**

*Forest Supervisor.*

[FR Doc. 07–693 Filed 2–14–06; 8:45 am]

BILLING CODE 3410–11–M

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# DEPARTMENT OF AGRICULTURE

## Forest Service

**RIN 0596–AC34**

## National Environmental Policy Act Documentation Needed for Oil and Natural Gas Exploration and Development Activities (Categorical Exclusion)

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of issuance of final directive.

**SUMMARY:** The Forest Service is revising procedures for implementing the National Environmental Policy Act (NEPA) and Council on Environmental Quality (CEQ) regulations. The procedures are being revised through issuance of a final directive that amends Forest Service Handbook (FSH) 1909.15, chapter 30. This chapter describes categorical exclusions; that is, categories of actions which do not individually or cumulatively have a significant effect on the human environment, and therefore, normally do not require further analysis

and documentation in either an environmental assessment (EA) or an environmental impact statement (EIS). The amendment adds one such category of actions to the Agency's NEPA procedures to facilitate implementation of limited oil and gas projects on leases on National Forest System lands that do not have significant effects on the human environment.

This categorical exclusion only applies to oil and gas leasing activities on National Forest System lands when there are no extraordinary circumstances. Use of this categorical exclusion will allow for approval of a Surface Use Plan of Operations for oil and natural gas exploratory operations and initial development activities associated with or adjacent to a new oil and/or gas field or area so long as the approval will not authorize activities in excess of any of the following: (a) One mile of new road construction; (b) one mile of road reconstruction; (c) three miles of individual or co-located pipelines and/or utilities disturbance; (d) four drill sites. More than a single action may be categorically excluded under this category in a new field or associated area when the aforementioned constraints are not surpassed.

In response to comments on the proposed categorical exclusion, two revisions were made to the original proposal: (1) The area in which the category is applicable was clarified to allow for variations between states on how a field is defined and determined; (2) utilities were added to the pipeline provision to address a common practice of co-locating pipelines and utilities in the same location or corridor.

**EFFECTIVE DATE:** This amendment is effective February 15, 2007.

**ADDRESSES:** The new Forest Service categorical exclusion is set out in FSH 1909.15, chapter 30, which is available electronically via the World Wide Web/Internet at *http://fsweb.wo.fs.fed.us/directives/fsh/1909.15/*. Single paper copies are available by contacting Peter Gaulke, Forest Service, USDA, Ecosystem Management Coordination Staff (Mail Stop 1104), 1400 Independence Avenue, SW., Washington, DC 20250–1104. Additional information and analysis can be found at *http://www.fs.fed.us/emc/nepa/oged/*.

**FOR FURTHER INFORMATION CONTACT:** Peter Gaulke, Ecosystem Management Staff, (202) 205–1521, or Tony Ferguson, Minerals and Geology Staff, (703) 605–4785, Forest Service, USDA.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Council on Environmental Quality (CEQ) regulations at 40 CFR 1507.3 provide that agency's National Environmental Policy Act (NEPA) procedures, after notice and comment, may identify categories of actions that do not have significant impacts on the human environment and, consequently, do not require preparation of an environmental assessment (EA) or an environmental impact statement (EIS). Current Forest Service procedures for complying with and implementing NEPA are set out in Forest Service Handbook (FSH) 1909.15, Environmental Policy and Procedures, chapter 30. This chapter lists the categories of actions that do not require preparation of an EA or an EIS by the Forest Service absent extraordinary circumstances. The Forest Service calls these ''categorical exclusions.''

Oil and gas development is widespread throughout the National Forest System (NFS). The Federal Onshore Oil and Gas Leasing Reform Act of 1987, 30 U.S.C. 226 (FOOGLRA) grants both the Secretary of the Interior (acting through the Bureau of Land Management) and the Secretary of Agriculture (acting through the Forest Service) authority and responsibility regarding oil and gas leases on NFS lands, and both agencies have the authority to determine the stipulations under which leasing will be permitted (30 U.S.C. 226(h); 43 CFR 3101.7–2(a)). FOOGLRA provides that the Forest Service shall regulate all surface disturbing activities relating to oil and gas leasing on NFS lands (30 U.S.C. 226(g)). No permit to drill on NFS lands may be granted without the analysis and approval by the Forest Service of a Surface Use Plan of Operations (SUPO) covering proposed surface disturbing activities within the lease area.

The Forest Service has established an incremental decisionmaking framework for the consideration of oil and gas leasing activities on NFS lands that is set out in 36 CFR 228.102. In general, the various steps undertaken are as follows: (1) Forest Service leasing analysis; (2) Forest Service notification to Bureau of Land Management (BLM) of lands administratively available for leasing; (3) Forest Service review and verification of BLM leasing proposals; (4) BLM assessment of Forest Service conditions of surface occupancy; (5) BLM offers lease; (6) BLM issues lease; (7) Forest Service review and approval of lessee's SUPO; and (8) BLM review and approval of lessee's application for permit to drill (APD). The categorical exclusion set out in this notice applies exclusively to the Forest Service's review and approval of an applicant's SUPO.

In 2001, the President issued Executive Order (E.O.) 13212 to expedite the increased supply and availability of energy to our Nation. E.O. 13212 set forth ''For energy-related projects, agencies shall expedite their review of permits or take other actions as necessary to accelerate the completion of such projects, while maintaining safety, public health, and environmental protections. The agencies shall take such actions to the extent permitted by law and regulation, and where appropriate.'' In response, the National Energy Policy and the Forest Service Energy Implementation Plan were developed. These two initiatives called for streamlining the processing of APDs and other energy-related permits in an environmentally sound manner. This categorical exclusion furthers the President's goals set forth in E.O. 13212.

On August 8, 2005, the Energy Policy Act of 2005 was signed into law. Section 390 of the Energy Policy Act of 2005 establishes categorical exclusions under NEPA that apply to five categories of oil and gas exploration and development activities conducted pursuant to the Mineral Leasing Act (30 U.S.C. et seq., as amended). The categorical exclusion in this notice is not intended to overlap or duplicate the categories in Section 390 of the Energy Policy Act of 2005. Taken in concert, this categorical exclusion and the five statutory categories discussed above further the goals set forth in E.O. 13212.

For decades, the Forest Service has analyzed, approved, and administered SUPOs for oil and gas exploration and development on NFS lands. As part of the Forest Service Energy Implementation Plan process, the planning and environmental review process for oil and gas leasing was reviewed by field personnel. This review indicated that the Forest Service and BLM land management planning process, leasing process, and SUPO and APD review processes for oil and gas exploration and development frequently caused agency personnel to extend timelines and expend undue staff, time, and funding in order to complete the planning and environmental documentation for minor exploration and/or development projects.

The Agency reviewed 73 site-specific oil and natural gas projects on National Forest System lands in development of the new categorical exclusion and determined that the category of actions included does not individually or cumulatively have a significant effect on the human environment. The Agency

also considered peer-reviewed scientific literature identifying potential effects of oil and gas development activities on wildlife and fishery populations, soils, and groundwater. The combination of the field review and literature review, available at *http://www.fs.fed.us/emc/nepa/oged/,* gives the Agency confidence that the categorical exclusion is appropriately defined. The Forest Service believes the level of effects associated with future activities within the new category would also be below the level of significant environmental effects.

**Response to Comments**

A 60-day comment period on the proposed category was initiated on December 13, 2005 (70 FR 73722). A total of 108 responses in the form of letters, e-mails, and faxes were received during the comment period. These comments came from private citizens, elected officials, and individuals and groups representing businesses, the oil and gas industry, and conservation organizations.

Public comment on the proposed category addressed a wide range of topics, many of which were directed generally at use of categorical exclusions under the National Environmental Policy Act. Many people supported the proposal or favored further expansion, while many others opposed the proposal or recommended further restrictions on oil and natural gas exploration and development on National Forest System lands.

*Comment:* Some respondents voiced general agreement with the proposed category. Some indicated that they thought current analysis and documentation requirements for oil and gas exploration and development are too burdensome and that the proposal would provide for more efficient management. Others believed that the proposal had appropriate limitations on the use of the categorical exclusions, and that the Forest Service had done sufficient analysis to conclude that this category of oil and gas activities normally does not individually or cumulatively have significant effects on the quality of the human environment.

*Response:* These comments were in support of the proposal and need no specific response. A summary of the remainder of public comments and the agency's responses follows.

*Comment:* Some respondents expressed concern and opposition to oil and gas exploration and development on National Forest System lands stating that these activities are inappropriate uses and incompatible with the mission of the Forest Service. Some respondents suggest that allowing for oil and gas development creates areas of ''single use'' on National Forest System lands.

*Response:* Oil and gas exploration and development is consistent with the Forest Service mission. Lands administered by the agency are managed by law for multiple- use (16 U.S.C. 528). The agency is directed to manage the various renewable surface resources of the National Forests to best meet the needs of the American people (16 U.S.C. 531). Under the Federal Onshore Oil and Gas Leasing Reform Act of 1987, the Forest Service is charged with regulating surface-disturbing activities conducted on agency lands pursuant to any lease issued under that Act and determining reclamation and other actions as required in interest of the conservation of surface resources (30 U.S.C. 226, 17(g)).

*Comment:* Several respondents suggested the Forest Service focus its efforts on alternative energy development.

*Response:* Alternative and renewable energy supply and development is included in the Energy Policy Act of 2005. The subject of this category is the effective and efficient management of certain oil and gas activities on NFS lands. The category appropriately responds to the circumstances and needs associated with this task.

*Comment:* Some respondents believe that the proposed category is contrary to the State Petitions for Inventoried Roadless Area Management Rule, and that inventoried roadless areas should, therefore, be excluded from the category. Other respondents believed that inventoried roadless areas should be included in the proposed category.

*Response:* First, the category is not in conflict with the State Petitions rule. The State Petitions for Inventoried Roadless Area Management Rule (36 CFR part 294) is a procedural rule that allows Governors to petition for State-specific rulemaking that may alter the management direction for inventoried roadless areas contained in existing land management plans. The Department has been clear that during the petitioning process, the management of roadless lands is governed by the applicable forest plan. The State Petitions Rule honors valid existing rights, including existing permits, contracts or other instruments authorizing occupancy and use of National Forest System lands.

The State Petitions Rule enables the Governors and Forest Service to give oil and gas resources the same consideration that other resources receive when considering alternatives for managing inventoried roadless areas. The rule also requires the Forest Service to inform the public of the consequences of foregone oil and gas production possibilities.

Second, it should be noted that this category would only be invoked in instances where the BLM has already approved a lease. The category is not a screening process for which lands should be available for leasing. Rather, it is a mechanism for assuring efficient consideration of environmental effects in certain situations. Additionally, the proposed category would only be available for use where leasing activities are consistent with the applicable forest plan and regulation, and any regulation promulgated pursuant to the State Petitions Rule. Importantly, neither the 2001 Roadless Rule, nor the 2005 State Petition Rule, prohibited the exercise of valid existing rights.

Finally, it should be noted that under the Forest Service's categorical exclusion process, the agency does evaluate potential impacts to inventoried roadless areas through its examination of extraordinary circumstances. While the mere presence of an inventoried roadless area does not disqualify use of the categorical exclusion, the responsible official will evaluate potential impacts. Use of the category would not be available where it is determined that the effect of the action on a resource condition such as an inventoried roadless area creates an extraordinary circumstance.

*Comment:* One respondent suggested that Executive Order 13212 does not support the proposed category.

*Response:* The Forest Service disagrees that the proposed category is inconsistent with Executive Order (E.O.) 13212. On May 18, 2001, E.O. 13212 directed Federal agencies to expedite their review of permits or take other actions as necessary to accelerate the completion of such projects, while maintaining safety, public health, and environmental protections. The Department conforms its policy to Executive orders and believes that it is appropriate to take applicable Executive orders, such as E.O. 13212, into account in promulgating regulations and issuing directives.

*Comment:* Some respondents commented that the proposed category was an attempt by the Forest Service to circumvent compliance with the National Environmental Policy Act (NEPA).

*Response:* Categorical exclusions are an integral part of NEPA compliance, and use of categorical exclusions in no way evades compliance with NEPA. The Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA direct

Federal agencies to identify those typical classes of actions which normally do not require either an environmental impact statement or environmental assessment (40 CFR 1507.3). CEQ defines such classes of actions as categorical exclusions. ''Categorical exclusion'' means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§ 1507.3), and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.'' (40 CFR 1508.4).

In subsequent guidance regarding NEPA regulations, CEQ explained that the use of categorical exclusions avoids unnecessary documentation of minor environmental effects in environmental assessments and allows agencies to focus their environmental review efforts on the major actions that will have a significant effect on the environment (48 FR 34263 (1983), also see 40 CFR 1500.4(p)). CEQ also encourages agencies to identify categorical exclusions using broadly defined criteria that characterize types of actions that normally do not have significant environmental effects, including cumulative effects (48 FR 34263 (1983)).

*Comment:* Several respondents suggested that the Forest Service should set time limits for completing NEPA analysis, documentation, and decisionmaking using the proposed categorical exclusion. It was also suggested that the use of a categorical exclusion can frequently take longer to approve than the more complex environmental assessments.

*Response:* As noted above, The CEQ has explained that the use of categorical exclusions avoids unnecessary documentation of minor environmental effects in environmental assessments (48 FR 34263 (1983)).

It is the experience of the Forest Service that the use of categorical exclusions has resulted in more efficient and expedited decisionmaking as compared to that of an environmental assessment. Forest Service experience is that an environmental assessment typically takes 4 to 6 months or longer to complete. A categorical exclusion usually takes 1 month or less to complete, representing a time savings of 3 to 5 months. This categorical exclusion is intended to improve efficiency in planning activities that normally do not have significant environmental effects.

*Comment:* Some respondents said the role and application of extraordinary circumstance screens is insufficient and open to abuse. Other respondents suggested that, without NEPA analysis, categorically excluded actions would not consider current information or surveys, and managers would be unaware of extraordinary circumstances that preclude the use of a categorical exclusion.

*Response:* The NEPA procedures in Forest Service Handbook (FSH) 1909.15, chapter 30, list the categories of actions that the Agency has found will not typically have individually or cumulatively significant effects on the human environment. These procedures also provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect. This chapter includes a list of ''[r]esource conditions that should be considered in determining whether extraordinary circumstances related to the proposed action warrant further analysis and documentation in an EA [environmental assessment] or an EIS [environmental impact statement] * * *'' Section 30.3 also states, ''The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion. It is (1) the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions, and (2) if such a relationship exists, the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist.''

The Forest Service has consistently considered best available science and current information when approving the use of a categorical exclusion. Pursuant to existing direction, the Forest Service must conduct a sufficient review to determine that no extraordinary circumstances preclude the use of categorical exclusions (FSH 1909.15, sec. 30.3). This determination may include appropriate surveys, consideration of the best available science, consultation with Tribes, and coordination with agencies that have regulatory responsibilities under other statues, such as the Endangered Species Act, National Historic Preservation Act, Clean Water Act, and Clean Air Act. Responsible officials will consider, on a project-by-project basis, whether or not extraordinary circumstances exist.

*Comment:* Several respondents asked that the Forest Service conduct NEPA analysis for this proposal, including a cumulative effects analysis on the impacts of the proposed category.

*Response:* The CEQ does not require agencies to prepare a NEPA analysis or document before establishing Forest Service procedures that supplement the CEQ regulations for implementing NEPA (see Regulatory Certifications section, titled ''Environmental Impact'').

*Comment:* A considerable amount of comment revolved around public notification and involvement when using the proposed categorical exclusion and the effect on the public's role in decisionmaking. Some respondents believed that the Forest Service's use of categorical exclusions would allow the Forest Service to bypass important procedural steps for project planning, such as public notification and involvement. Other respondents stated that use of the proposed categorical exclusion would restrict public involvement activities. Still other respondents commented that scoping is not warranted for actions that may be categorically excluded.

*Response:* As directed by CEQ regulations (40 CFR 1507.3), the Forest Service has developed Agency policy for implementing NEPA and CEQ's regulations. As noted in Forest Service Handbook (FSH) 1909.15, chapter 10, section 11: ''Although the Council on Environmental Quality (CEQ) Regulations require scoping only for EIS [environmental impact statement] preparation, the Forest Service has broadened the concept to apply to all proposed actions.'' FSH 1909.15, chapter 30, section 30.3(3) further states: ''Scoping is required on all proposed actions, including those that would appear to be categorically excluded.''

As part of the scoping process for proposals potentially covered by this categorical exclusion, the responsible official must determine the extent of interest and invite the participation of affected Tribes, Federal agencies, State agencies, local agencies, and other interested parties, as appropriate. The Forest Service is committed to fulfilling its public involvement responsibilities with all parties interested in projects potentially qualifying for these categorical exclusions.

Although not intended to be a substitute for scoping, the Forest Service also provides notice of upcoming proposals through the use of a Schedule of Proposed Actions (see FSH 1909.15, ch. Zero Code, sec. 07). The schedule gives early and informal notice of proposals to make the public aware of Forest Service activities and provide an opportunity for the public to indicate their interest in specific proposals. Schedules may be distributed in hard copy by the respective forest and can be found at *http://www.fs.fed.us/sopa*.

Pursuant to the Federal Onshore Oil and Gas Leasing Reform Act of 1987, the Bureau of Land Management and the surface management agency are required to post for public review a notice of proposed activities as found on the Application of Permit to Drill (APD).

*Comment:* Some respondents commented that oil and gas development activities are beyond the scope of what activities should be allowed for under a categorical exclusion.

*Response:* Based on site-specific project-level analysis of environmental effects and the belief that the profile of projects reviewed representing the Agency's past practices is indicative of its future activities, the Forest Service concludes that the category of action proposed does not individually or cumulatively have a significant effect on the human environment. While confident of the conclusion, the Agency, nevertheless, has established limitations on the type and extent of activities to be approved under this categorical exclusion.

*Comment:* Some respondents stated that the proposed category is inappropriate as it goes beyond congressional intent as expressed in the Energy Policy Act of 2005, Section 390. Other respondents felt that the proposed category is inconsistent with Section 390 and the intent and activities of the two should be incorporated. Others suggested that the effects of the Energy Policy Act of 2005 should be realized before the Forest Service undertakes an effort of this type.

*Response:* Section 390 of the Energy Policy Act of 2005 establishes categorical exclusions under NEPA that apply to five categories of oil and gas exploration and development activities conducted pursuant to the Mineral Leasing Act (30 U.S.C. et seq., as amended). Independent of the categorical exclusion in this directive, the Forest Service has provided direction to the field on the use of Section 390. Nothing in the Energy Policy Act of 2005, Section 390 precludes agencies from adding additional categorical exclusions to their respective NEPA procedures.

The categorical exclusion in this directive does not, and is not intended to, overlap or duplicate the activities contained in Section 390 of the Energy Policy Act of 2005. It is separate and independent of the provisions of Section 390. It is based on historical use of environmental assessments and field data that support the conclusion that the category generally would not result in significant impacts. It is complementary to Section 390 and meets the intent of Executive Order (E.O.) 13212 that provides: ''For energy-related projects, agencies shall expedite their review of permits or take other actions as necessary to accelerate the completion of such projects, while maintaining safety, public health, and environmental protections.'' Taken in concert, the categorical exclusion in the final directive and the five statutory categories in Section 390 further the goals set forth in E.O. 13212.

*Comment:* One respondent encouraged the Forest Service to mitigate skewed comments resulting from organized letter writing campaigns focusing less on the number of comments and more on the quality and substance of the comments.

*Response:* Every comment received is considered for its substance and contribution to informed decisionmaking, whether it is one comment repeated by many people or a comment submitted by only one respondent. The public comment process is not intended to serve as a survey process to determine public opinion. The emphasis in reviewing public comment is on the content of the comment rather than on the number of times a comment was received. The comment analysis process is intended to identify unique substantive comments relative to the proposal to facilitate their consideration in the decisionmaking process. All comments are considered, including comments that support and that oppose the proposal. That people do not agree on how public lands should be managed is a historical, as well as modern dilemma faced by resource managers. However, public comment processes, while imperfect, do provide a vital avenue for engaging a wide array of the public in resource management processes and outcomes.

*Comment:* Some respondents commented that the Forest Service should track the use and progress of oil and gas exploration and development projects under the proposed categorical exclusion and make this information and associated NEPA documentation available for public review.

*Response:* The Forest Service tracks NEPA-related planning information of projects, including those for oil- and gas-related activities, whose decisions are expected to be documented in a Record of Decision, Decision Notice, some Decision Memos, or Forest Plan Approval Document. This tracking allows for an assessment use of certain categorical exclusions and progress of individual projects. Public viewing of this information is contained in the Schedule of Proposed Actions which is distributed in hard copy and posted at *http://www.fs.fed.us/sopa* four times a year: January, April, July, and October. The schedule contains a list of proposed actions that will soon begin or are currently undergoing environmental analysis and documentation. It provides information so that the public can become aware of and indicate interest in specific proposals. Oil and gas projects analyzed and documented per this categorical exclusion will be included on the Schedule of Proposed Actions.

*Comment:* A few respondents expressed opinions on subjecting proposed actions under this categorical exclusion to the public notice, comment, and appeal process requirement in the rules at 36 CFR part 215. Some respondents considered the public notice, comment, and appeal process as absolutely essential for responsive decisionmaking.

*Response:* In *Earth Island Institute* v. *Ruthenbeck*, the Federal District Court for the Eastern District of California ordered that categorically excluded timber sales and 10 specific categorically excluded activities are subject to notice, comment, and appeal under the 36 CFR part 215 rules. Therefore, if use of this categorical exclusion includes activities specified by the court, then notice, comment, and appeal are currently required. Conversely, if activities specified by the court are not included, then notice, comment, and appeal pursuant to 36 CFR part 215 does not apply.

*Comment:* Some respondents opposed to the proposed categorical exclusion feel that any increase in the use of categorical exclusions represents a reduction in environmental review and the use of science in decisionmaking. As a result, they feel that the proposed categorical exclusion could result in adverse impacts to National Forest System lands and resources including roadless areas, wilderness areas, national recreation areas, threatened and endangered species, American Indian sacred sites, and archeological sites.

*Response:* Categorical exclusions are to be used for routine actions that have been found by the Forest Service through experience and environmental review to have no significant environmental effects either individually or cumulatively (40 CFR 1508.4). On August 23, 2002, the Forest Service published a final interim directive to Forest Service Handbook (FSH) 1909.15, chapter 30, which provided direction regarding how actions, which may be categorically excluded, should be considered to determine if they warrant further analysis and documentation in an

environmental assessment or environmental impact statement (67 FR 54622).

Forest Service NEPA procedures require that all proposed actions to be categorically excluded from documentation in an environmental assessment or environmental impact statement must be reviewed for extraordinary circumstances, which may include appropriate surveys and analyses, taking into account best available science, appropriate consultation with Tribes and regulatory agencies, such as those required by the Endangered Species Act, the National Historic Preservation Act, Clean Water Act, and Clear Air Act. Accordingly, this categorical exclusion does not apply where there are extraordinary circumstances, such as potentially significant effects on the following: Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species; floodplains, wetlands or municipal watersheds; congressionally designated areas such as wilderness, wilderness study areas, or national recreation areas; inventoried roadless areas; research natural areas; American Indian and Alaska Native religious or cultural sites; archaeological sites, or historic properties or areas (FSH 1909.15, ch. 30, sec. 30.3, para. 2).

*Comment:* A number of respondents raised issues related to the possible significant cumulative impacts of projects under this proposed categorical exclusion or the impacts of implementing such projects in combination with other activities under other authorities or on other Federal lands. Most of the statements were general, but some mentioned specific impacts, such as those on wildlife or water quality.

*Response:* For each of the 73 oil and gas projects considered in defining this category, the question of whether there were significant cumulative effects was specifically addressed. Reviewers examined the possibility of significant cumulative effects from these activities and all other activities within the appropriate boundaries for potential resource effects. For example, based on an assessment of wildlife conditions in the local habitat area, or water quality impacts relative to a watershed, significant cumulative effects were not observed.

Some public concerns with regard to environmental effects, both individual and cumulative, include those regarding wildlife populations and water quality. As examples, soil and water resources are protected during oil and gas projects through implementation of State and Environmental Protection Agency approved Best Management Practices and lease level stipulations. For Surface Use Plan of Operations, the Forest Service has the capacity to protect surface resources through the development of conditions of approval.

The Forest Service is required to consult with the U.S. Fish and Wildlife Service (FWS) or National Oceanic and Atmospheric Administration (NOAA) Fisheries whenever any proposed actions or activities may affect an endangered or threatened species or adversely modify designated critical habitat. The Forest Service regularly coordinates and consults with the appropriate State wildlife agency, FWS, and NOAA Fisheries on species protection and conservation efforts to address potential individual and cumulative impacts of Forest Service practices on threatened and endangered wildlife and fish species and their habitat.

It is important to note that if a proposed project may have a significant effect on a species listed or proposed to be listed on the List of Endangered and Threatened Species or on designated critical habitat for these species, the Agency under existing Forest Service NEPA procedures may not use a categorical exclusion.

Concerns were raised regarding a cumulative effect of this categorical exclusion combined with the Energy Policy Act Section 390 categories. This categorical exclusion is designed, in part, to be used in new fields or areas at the preliminary stages of development, which are designed to obtain data needed for planning potential subsequent development and performing meaningful analysis of such development. The use of Section 390 is for wells in existing fields where a site-specific NEPA document for oil or gas exploration/development, or analysis of drilling as a reasonably foreseeable activity has been completed. These documents, in addition to the previously completed leasing analysis, address the cumulative effects of field development.

*Comment:* Some respondents commented that the impacts considered when reviewing the 73 projects used to support the proposed categorical exclusion did not include effects to subsurface resources or the ''subsurface footprint.'' Respondents centered their comments on subsurface impacts, including the appearance of extraction-related sinkholes, which are argued likely to become more evident after the 5-year period following initiation of extraction activities.

*Response:* Regardless of whether a well is analyzed and documented in a categorical exclusion, environmental assessment, or environmental impact statement, the BLM holds the primary responsibility for the drilling plan portion of the APD and protecting the mineral estate of the United States. As part of the drilling plan, the BLM requires casing and cementing procedures to protect the ground water from contamination from deeper aquifers and prevent the loss of oil or gas from the well bore. The casing and cementing programs are also designed to prevent the movement of fluid around the well bore that may result in the rare occurrence of sink holes.

*Comment:* Some respondents stated that the Forest Service should perform a thorough economic evaluation that takes into account the loss of economic benefits that will result from the proposed categorical exclusion. Respondents say that such an evaluation should include consideration of existing uses and functions of National Forest System lands including recreation, flood control, pest control, carbon sequestering, and many other ecosystem services. Much greater attention to the costs and benefits of the proposed categorical exclusion is necessary.

*Response:* The primary economic effects of the proposed categorical exclusion for oil and gas exploration and development are changes in costs of conducting environmental analysis and documentation. Under current NEPA procedures, the level of analysis and documentation required for oil and gas exploration and development often required agency personnel to extend processing timeframes and expend undue resources and funding to complete minor exploration and development projects in an environmental assessment. The purpose of the categorical exclusion for oil and gas exploration and development on National Forest System land under existing Federal leases is to streamline the process of applications for permits to drill. In compliance with Executive Order 12866, the Forest Service has prepared a cost-benefit analysis and has determined that this categorical exclusion will not have an annual effect of $100 million or more on the economy or adversely affect productivity, competition, jobs, the environment, public health or safety, or Tribal, State, or local governments. The economic effect from this categorical exclusion is expected to result in a reduction in the administrative burden of preparing

unnecessary environmental assessments and findings of no significant impact.

The economic analysis does not evaluate the loss of economic benefits as a result of this change because the Forest Service does not foresee that this new categorical exclusion will have a measurable effect on the number of oil and gas projects approved by the agency. Other factors, such as market forces resulting from fluctuations in price due to weather, natural disasters, and demand, and available industry infrastructure would likely have a more significant effect on the pace of oil and gas exploration and development activities. Additionally, the Forest Service's review and approval of an applicant's surface use plan of operations is one step of an eight step incremental decisionmaking process. Therefore, the agency has assumed that the rule will not change the scope or types of projects being approved, but only result in cost savings due to a more streamlined process for approval.

*Comment:* Numerous respondents questioned the sample size and the procedures used in selecting the 73 projects evaluated in determining that this is a category of actions which does not individually or cumulatively have a significant effect on the human environment. Some respondents stated that the methodology for establishing the category was not publicly available and, therefore, not available for review. Other respondents expressed concern that the time period in which the data was collected was too short for the actual environmental effects to be realized and, therefore, unfairly biased the sample data.

*Response:* The Deputy Chief for the National Forest System instructed field units to perform on-site monitoring and submit corresponding data on 100 percent of oil and gas exploration and development projects that had been assessed in an environmental assessment and approved and constructed, or partially constructed, between October 1, 1999, and September 30, 2004. The projects were selected from this time frame because there have been substantial improvements in technology and environmental protection requirements for oil and gas exploration and development on NFS lands in the last 5 years. Therefore, the projects that were assessed during this period are more representative of how future projects will be designed.

The objective of the on-site monitoring was to determine if surface operations for oil and gas activities approved in site-specific environmental assessments did or did not have individual or cumulatively significant effects on the human environment and, therefore, could or could not qualify for a categorical exclusion in accordance with the Council on Environmental Quality regulations for implementing NEPA. The Forest Service's review of the 73 projects was not intended to determine whether the projects had effects on the environment, but to determine whether these types of activities had significant effects.

Upon publication of the December 13, 2005, **Federal Register** Notice of the proposed category, the ''Methodology for Project Data Collection And Results of Review'' paper was posted for public review, along with other supporting documents, on the Forest Service Web site. The paper and other documents remain posted at *http://www.fs.fed.us/emc/nepa/oged/*.

The Forest Service relied on the professional judgment of the responsible officials, using the implementing regulations for NEPA (40 CFR 1500–1508) concerning the significance of environmental effects. The Agency believes that resource specialists and agency-responsible officials involved in the design and analysis of each specific on-the-ground project were best qualified to identify resulting environmental effects and determine whether extraordinary circumstances were present.

*Comment:* Several respondents questioned why the proposed categorical exclusion was limited to new fields and commented that no rationale was given for why existing fields were excluded from the categorical exclusion's use. Some respondents commented that limiting the new categorical exclusion to new fields will unnecessarily prevent expeditious processing of applications for permits to drill associated with infill development and other activities that may have no significant impact on the environment.

*Response:* Parameters of the proposed categorical exclusion (miles of road construction, road reconstruction, pipeline and utility installation, and number of drill sites) were selected because they were found in the site-specific project-level review to individually have no significant impacts on the human environment. With the exception of 25 projects monitored on the Jicarilla Ranger District located in the San Juan Basin, an area that is already largely developed, projects monitored were determined to not have individually or cumulatively significant effects. Therefore, the scope of the categorical exclusion was limited to a single new field to address the inconclusive cumulative effects results from the Jicarilla Ranger District where numerous production wells are located in single fields.

It is expected that categorical exclusions identified in Section 390 of the Energy Policy Action of 2005 would assist in more efficiently processing applications for permits to drill in existing fields. This category complements Section 390 categorical exclusions within new fields.

*Comment:* Various respondents questioned the methodology used to gather and interpret activity information used in the agency's conclusion that the proposed categorical exclusion does not individually or cumulatively have a significant environmental effect on the quality of the human environment. Some do not believe the evidence is sufficient for this conclusion because it does not adequately typify all potential National Forest System lands that are or may be put under lease and subject to potential development. Others suggest various biases toward certain regions of the country are reflected in the oil and gas projects selected for review.

*Response:* The regional locations of the 73 projects were determined by oil and gas development activities during the 60-month time period. Geographic characteristics of the projects reviewed ranged from relatively flat shrub and grass-covered prairie to rugged, timber-covered mountainous terrain. Projects included in the sample were located across the country from the Colorado Rockies to the eastern broadleaf forests, covering nine different ecological subregions of the United States. Subregions in the west included: Great Plains Palouse Dry Steppe, Southern Rocky Mountain Steppe, Colorado Plateau Semi Desert, and the Great Plains Steppe. Subregions in the southeast included: The Ozark Broadleaf Forest, Outer Coast Plain Mixed Forest, and Southeastern Mixed Forest. Subregions of the east included: Central Appalachian Broadleaf Forest and Eastern Broadleaf Forest. The sample of projects does not include every region with potential oil and gas development activities. Yet, the Agency concluded that this sample size was representative of future oil and gas development activity locations, and the common activities associated with oil and gas exploration and development were adequate to review for significant environmental impacts.

In Alaska, for example, of the 21,969,321 total acres of National Forest System lands, only two areas are known to be geologically permissible for oil and gas production that is, possessing a reasonable probability of having oil and

gas resources. These are the Yakutat Forelands on the Tongass National Forest and the Katalla area on the Chugach National Forest. No oil and gas exploration interest or activities have taken place within the past 40 years on these areas, and no leases currently exist. Though no interest or activities exist today, this categorical exclusion would apply to National Forest System lands in Alaska. Oil and gas exploration and development activities are generally the same whether in the lower 48 states or Alaska, and the application of the category's extraordinary circumstances provides for screens against significant environmental impacts.

*Comment:* Some respondents questioned whether the Forest Service worked collaboratively with other Federal agencies, namely the Bureau of Land Management and the Environmental Protection Agency, in developing the proposed category. Others requested that the Federal agencies work collaboratively on minerals management on Federal lands.

*Response:* In the development and review of the proposed category, the Forest Service coordinated with the Bureau of Land Management, the Environmental Protection Agency, the Council on Environmental Quality, and other Federal Agencies. In general, the Forest Service coordinates with these agencies on all oil and gas activities on NFS lands, as well as State, Tribal and local governments.

In addition, the Forest Service and Bureau of Land Management have coordinated their implementation efforts of the categorical exclusions in Section 390 of the Energy Policy Act of 2005.

*Comment:* Several respondents commented that the evidence provided by the 73 projects reviewed is not sufficient to make conclusions on coalbed methane development or in unconventional fields requiring specialized development techniques. These respondents commented that methodology used to support the Forest Service's conclusion that the proposed category for oil and gas exploration and development actions does not individually or cumulatively have a significant environmental effect on the human environment was inadequate and, therefore, these types of activities should be excluded from the proposed categorical exclusion.

*Response:* The 73 projects considered in defining this categorical exclusion included ''conventional'' oil and gas operations and ''unconventional'' operations, including coalbed methane projects. Approximately half of the projects monitored were oil projects with the other half being gas projects. Of the gas projects, about 25 percent were coalbed methane. Because coalbed methane projects often contain multiple wells, approximately 60 percent of all wells studied were coal bed methane. The projects monitored for development of this categorical exclusion did show that oil and gas exploration and preliminary field delineation activities, irrespective of the type of oil or gas reservoir (limestone, sandstone, or coal), have similar environmental effects.

The type of equipment and nature and duration of oil and gas operations that could potentially affect other resources are similar for oil and gas exploration and initial field delineation activities for many types of deposits, including exploration for and development of coalbed methane.

*Comment:* Some respondents commented that they would prefer to see the limitations for road construction or reconstruction, miles of pipeline installation, and number of drill sites of this category decreased, while others would like to see these constraints increased. Some respondents wanted geophysical activities included in this category.

*Response:* To determine the potential impacts of oil and gas activities, data was gathered from 73 oil and gas projects that have been implemented within the past 5 years. None of the projects evaluated had significant impacts on the human environment. Rather than setting any parameters at the limits of the range evaluated, the Forest Service believes it is prudent and conservative not to exceed the mean of each parameter within the proposed categorical exclusion.

Statistical analysis was utilized to determine the mean (average), median, and mode of all compiled data on all 73 projects on which data was collected. While all three are statistically valid measures, the mean values of the 73 projects on which the Forest Service collected data were used in development of this categorical exclusion. The mean resulted in thresholds which created reasonable operability for oil and gas operators with limited environmental impacts on National Forest System lands. Use of the median or mode provided threshold values which were too low (below a value of 1.0) to provide a meaningful scope for future projects.

Limited mineral, energy, or geophysical investigations are currently categorically excluded from documentation in an environmental impact statement or environmental assessment by Forest Service NEPA procedures in FSH 1909.19, 31.2(8) and, therefore, are not included in this category.

*Comment:* Some respondents commented that the definition of ''pipeline'' in the proposed category needed clarification. In particular, some respondents believe that utilities, such as electric lines should be included in the proposal, and others stated that pipelines buried within an existing road or pipeline corridor should be exempt.

*Response:* Of the 73 oil and gas projects monitored for development of the proposed categorical exclusion, 16 of 73 project highlighted utilities in their decision, and 50 of 73 projects included pipelines and/or utilities being placed adjacent to or within the previously disturbed and unreclaimed road prism. Thirty-two of the 73 projects specified that the utilities be buried. The category's language has been expanded to include utilities as well as pipelines.

It is common practice to co-locate pipelines, utilities, and roads within the same corridor of disturbance. The BLM's Best Management Practices For Oil & Gas Development on the Public Lands include co-locating pipelines and utilities together to minimize surface disturbance, including roads and utilities sharing common rights-of-way. These Best Management Practices also state that to reduce visual contrast in visually sensitive areas, flow lines and pipelines should be buried, preferably in or adjacent to the roadway, particularly if the lines are long-term. Where road, pipelines, and utilities share common areas of disturbance, the disturbance will not be considered cumulatively against the constraints of the categorical exclusion.

*Comment:* Many respondents felt that the definition of ''drill site'' was not adequately defined in the proposed category and needed clarification. Other respondents felt that as currently defined, ''drill site'' allowed too much flexibility in the categorical exclusion's implementation that would ultimately lead to abuse and inconsistent application. Some of the respondents felt that the drill sites should limited by acres.

*Response:* A drill site, commonly referred to as a ''pad'', is a location that is needed to accommodate the equipment used to drill a well or wells. A drill site may contain more than one well. Not all wells may ultimately be producers, at which case the drill site is reclaimed. Productive well sites can often be reduced in size following the drilling phase.

The 73 oil and gas projects monitored included a spectrum of drill site sizes from small coalbed methane

development sites, (0.5 acres per site on the Thunder Basin National Grassland) up to 3.5 acres for deep, 10,000 feet well on the Dakota Prairie National Grasslands. Since the sample included all environmental assessments for a 5-year period and individually no project identified significant environmental effects, actual pad size did not correlate to the significance of effects. Therefore, no change to the text of the category is required.

*Comment:* Numerous respondents raised concerns that the Forest Service could misuse the proposed categorical exclusion through the definition of a ''field'', thereby segmenting larger projects into sizes that qualify under the categorical exclusions. Some respondents commented that such segmentation would violate Council on Environmental Quality NEPA regulations. Other respondents stated they felt there is not a clear process to establish the boundaries of a field. Some respondents noted that a ''field'' is not established until production is proven, therefore, exploration drill sites could not fall under this categorical exclusion.

*Response:* The Society of Petroleum Engineers defines a field as: ''An area consisting of a single reservoir or multiple reservoirs all grouped on, or related to, the same individual geological structural feature or stratigraphic condition.'' The field name refers to the surface area, although it may refer to both the surface and the underground productive formations.

The comment about the establishment of fields only after the discovery of oil or gas is correct. If an exploration well is drilled in an area not previously classified as a field, and the well is determined to be productive; then the applicable State oil and gas regulatory agency follows procedures established for that State to define the field. Some States may require more than one productive well before they establish a field. If additional wells indicate that the boundary defining the aerial extent of the field should be changed, State agencies follow established procedures to change the field boundaries. These procedures often include open, public hearings. Information about the delineation of fields and the procedural process for establishing and changing field boundaries vary and can be found on the web pages of many States' oil and gas agencies.

The language in the proposed category has been adjusted for activities adjacent to a new oil and/or gas field to more correctly reflect that certain exploratory proposals could be approved per this categorical exclusion if they met the listed constraints. ''Adjacent to'' is defined as within an adjacent spacing unit to a new field or to a first productive well in a new area. Temporary spacing units are determined by the State's oil and gas regulatory agency through an established process based on the formation or pool most likely to be productive. This categorical exclusion is designed for preliminary operations that are necessary to gather both the surface and subsurface resource information necessary to assess the potential for field development.

Regarding segmentation, the responsible official is required to properly identify the characteristics of the proposed action (FSH 1909.15, ch. 10, sec. 11.2). The Forest Service follows the Council on Environmental Quality (CEQ) regulations for all their proposals that may undergo environmental review, including the documentation for categorical exclusions; ''proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement'' (40 CFR 1502.4(a)). The Forest Service also follows the CEQ definition for determining the scope of a proposed action as defined at 40 CFR 1508.25, which discusses connected and related actions. Consequently, segmenting a larger project into smaller projects in order to meet the stated constraints and be considered under this categorical exclusion is contrary to Forest Service guidance. Forest Service oversight of the application of these categories through internal reviews such as Chief's, regional, and forest reviews emphasizes these compliance requirements and should prevent abuse.

*Comment:* Some respondents assert that the proposed category wrongly assumes that all existing forest plans have comprehensive and recently updated pre-leasing information and, because the perceived intense future oil and gas development on National Forest System lands was not anticipated when most existing plans were written, local forests have not appropriately analyzed the environmental impacts. Other respondents characterized the proposed category as a shell-game where little or no review takes place during general planning and leasing, and then when the time comes for such input and review at the drilling stage, a categorical exclusion might apply which offers little NEPA analysis.

*Response:* The Forest Service has mechanisms for updating oil and gas lease information. At the time a parcel is processed for leasing, the parcel goes through a review to assure the stipulations are correctly applied. As new information is identified, the Forest Service reviews and determines if the information is of importance and necessitates additional or adjusted stipulations.

Conditions of Approval, applied to Surface Use Plan Operations, may be adjusted or changed when warranted after a review of new information. The Forest Service considers all relevant information when evaluating Surface Use Plans of Operations.

Regardless of the type of NEPA document used or the age or complexity of prior analysis, the Forest Service develops mitigations for each drill site per the terms of the lease. Minimum surface use requirements are established in 36 CFR 228.108 and On-Shore Order #1. Directions for bonding requirements are in 36 CFR 228.109.

*Comment:* Some respondent comments noted confusion over the staged decisionmaking process involved with oil and gas development on Federal lands. Some respondents stated that the proposal would frustrate the staged decisionmaking approach established by Congress for onshore oil and gas development. Other respondents commented that the proposed categorical exclusion is inconsistent with Forest Service oil and gas regulations in that the use of the proposed category would be the first NEPA analysis conducted for the field.

*Response:* The Department of the Interior, Bureau of Land Management (BLM), acts as the onshore leasing agent for the Federal Government. The BLM schedules and conducts competitive bid lease sales, collects the bonus bids and issues leases to the successful bidders. As a land management agency, the Forest Service makes initial determinations on whether or not lands will be available for leasing, and under what conditions (stipulations) the leases will be issued. Forest Service decisions about leasing are made in conjunction with approved forest or grassland land management plans, as well as in separate forest-wide or area-specific leasing decisions. Oil and gas leasing availability decisions are made in compliance with the National Environmental Policy Act as well as other laws such as the Endangered Species Act and the National Historic Preservation Act, and includes public notice and opportunity for comment. The BLM may be a cooperating agency in these efforts. Final determinations regarding lease offerings and stipulations are ultimately made by the BLM.

The Energy Policy and Conservation Act (EPCA) directed the BLM, in cooperation with the Forest Service, to

summarize Forest Service and BLM plan leasing decisions. In two phases, the highest potential onshore geologic basins were studied. The studies show that for the National Forest System lands studied 47 percent are off-limits to any surface exploration or development (due to legal and administrative withdrawal, a ''no leasing'' decision or a ''no surface occupancy'' lease), 19 percent are available to exploration and development under standard lease terms and restrictions, and 34 percent are subject to additional restrictions beyond the standard lease terms and restrictions for additional protection of other forest or grassland resources or uses. The study shows that oil and gas exploration or development activity is not allowed or is restricted where such activity would have significant adverse environmental effects or be incompatible with other forest or grasslands uses or management schemes. The screening that occurs at the leasing decision stage contributes significantly to the findings of no significant environmental impacts of the 73 projects studied.

At the stage that this categorical exclusion would be used, Forest Service and BLM leasing decisions have been made, and stipulations have been determined and applied to the lease. The lease has been issued with certain constraints, and development is subject to the terms of the lease. When a review of a SUPO has been completed, the Forest Service responsible official may approve the plan as submitted, approve the plan with specified conditions, or disapprove the plan with stated reason (36 CFR 228.107(b)(2)).

*Comment:* Some respondents suggested that the Forest Service monitor categorically excluded oil and gas exploration activities to ensure that they do not have significant environmental impacts. Other respondents expressed opinions over what is perceived as a poor track record on the Forest Service's part in monitoring and; thus, it could not be trusted to maintain their monitoring and enforcement obligations.

*Response:* Forest and land management plans already provide for monitoring of management activities regarding applicable laws, regulations, and standards and guidelines; effectiveness of project implementation, including any specified mitigation measures; validation of models and assumptions used in the planning processes; and environmental impacts. Projects implemented under these categories will be included in these ongoing monitoring efforts.

In addition to forest plan determined monitoring, Forest Service personnel regularly inspect oil and gas wells and facilities and compliance with the respective permit terms and conditions in the Surface Use Plan of Operations (SUPO) thus, minimizing or prohibiting effects on other resources. Actions required in the SUPO to help mitigate various resource concerns are monitored to ensure they are appropriately implemented. Upon identifying operations not in compliance with permit terms and conditions and/or contributing to undesirable effects, Forest Service personnel take steps to ensure that noncompliant activities are corrected. Such steps include, but are not limited to, requiring the operator to take corrective actions and requesting assistance from the Bureau of Land Management to enforce lease terms and conditions.

For oil and gas exploration and development on National Forest System lands environmental protection is provided for in an element of overlap or redundancy during the implementation of Best Management Practices (BMPs) and mitigation measures. Individual NEPA analysis on the SUPO, a component of the APDs, includes site-specific BMP and mitigations measures, and implementation monitoring then occurs and informs future development of BMPs, or mitigation measures.

Further, respective State inspectors routinely enter Federal lands and inspect wells and facilities for compliance with State laws, regulations, and requirements.

## Conclusion

The Forest Service, U.S. Department of Agriculture (Forest Service) finds that the category of action defined in the categorical exclusion presented at the end of this notice does not individually or cumulatively have a significant effect on the human environment. The Agency's finding is first predicated on the reasoned expert judgment of the responsible officials who made the original findings and determinations in the oil and gas projects reviewed; the resource specialists who validated the predicted effects of the reviewed activities through monitoring or personal observation of the actual effects; and, finally, the Agency's judgment that the profile of past oil and natural gas exploration and development activities represents the Agency's past practices and is indicative of the Agency's future activities.

This categorical exclusion will permit timely response to an applicant's SUPO for limited oil and gas exploration and development activities involving small areas of National Forest System land. Additionally, it will conserve limited agency funds.

The text of the final categorical exclusion is set out at the end of this notice.

## Regulatory Certifications

### *Environmental Impact*

The revision to Forest Service Handbook 1909.15 would add direction to guide field employees in the Forest Service regarding requirements for NEPA documentation for particular oil and gas exploration and development activities. The Council on Environmental Quality does not direct agencies to prepare a NEPA analysis or document before establishing agency procedures that supplement the CEQ regulations for implementing NEPA. Agencies are required to adopt NEPA procedures that establish specific criteria for, and identification of, three classes of actions: Those that require preparation of an environmental impact statement; those that require preparation of an environmental assessment; and those that are categorically excluded from further NEPA review (40 CFR 1507.3(b)). Categorical exclusions are one part of those agency procedures, and therefore, establishing categorical exclusions does not require preparation of a NEPA analysis or document. Agency NEPA procedures are internal procedural guidance to assist agencies in the fulfillment of agency responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action. The requirements for establishing agency NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3. The determination that establishing categorical exclusions does not require NEPA analysis and documentation has been upheld in *Heartwood, Inc.* v. *U.S. Forest Service*, 73 F. Supp. 2d 962, 972–73 (S.D. Ill. 1999), aff'd, 230 F.3d 947, 954–55 (7th Cir. 2000).

### *Regulatory Impact*

This directive has been reviewed under USDA procedures and Executive Order 12866, as amended by 13422, on Regulatory Planning and Review. The Office of Management and Budget (OMB) has determined that this is a significant regulatory action as defined by the Executive order. Accordingly, OMB has reviewed this directive.

The primary economic effects of the categorical exclusion for review of SUPO associated with oil and gas lease operations are changes in costs of conducting environmental analysis and

preparing NEPA documents. The new categorical exclusion would reduce agency costs by reducing the documentation requirements for certain oil and gas exploration and development on National Forest System land under existing Federal leases.

Effects on local economies and small business entities are expected to be nearly the same using either an environmental assessment or categorical exclusion for oil and gas exploration and development activities. There is potential for an increase in certain oil and gas exploration and development projects, as well as an increase in site administration since they would be faster and cheaper to prepare.

Agency costs for categorical exclusions were discounted at 3 percent and 7 percent discount rates for 10-year period from 2006 to 2015. By using 3 percent discount rate, total discounted cost for categorical exclusions were estimated at $7.1 million with an annualized cost of $0.81 million, while the total discounted cost for environmental assessments would be $42.7 million with an annualized cost of $4.9 million. An annualized cost saving of $4.05 million for categorical exclusions is estimated by using a 3 percent discount rate. While using a 7 percent discount rate for the same timeframe, the results show that total discounted cost for categorical exclusions were estimated at $6 million with an annualized cost of $0.8 million, the total discounted cost for environmental assessments would be $36 million with an annualized cost of $4.8 million. An annualized cost saving of $4 million is estimated for categorical exclusions by using a 7 percent discount rate. This quantitative assessment indicates a cost savings for the Agency using categorical exclusions for reviewing SUPO for oil and gas exploration and development projects.

The Cost-Benefit Analysis prepared for this categorical exclusion can be found on the World Wide Web at *http://www.fs.fed.us/emc/nepa/oged/*.

*Federalism*

The Agency has considered this directive under the requirements of Executive Order 13132 issued August 4, 1999, ''Federalism.'' The Agency has made an assessment that the directive conforms with the Federalism principles set out in this Executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the National Government and the States, nor on the distribution of power and responsibilities among the various levels of government. Therefore, the Agency concludes that the directive does not have Federalism implications.

*Consultation and Coordination With Indian Tribal Governments*

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

*No Takings Implications*

This directive has been analyzed in accordance with the principles and criteria contained in Executive Order 12630 on Governmental Actions and Interference with Constitutionally Protected Property Rights, and it has been determined that the directive does not pose the risk of a taking of constitutionally protected private property.

*Civil Justice Reform*

In accordance with Executive Order 12988, it has been determined that the categorical exclusion in this final directive does not unduly burden the judicial system, and that they meet the requirements of sections 3(a) and 3(b)(2) of the order.

*Unfunded Mandates*

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Agency has assessed the effects of the categorical exclusion in this final directive on State, local, and Tribal governments and the private sector. This categorical exclusion does not compel the expenditure of $100 million or more by any State, local, or Tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

*Energy Effects*

This directive has been reviewed under Executive Order 13211 on Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this directive does not constitute a significant energy action as defined in the executive order.

*Controlling Paperwork Burdens on the Public*

This directive does not contain any additional recordkeeping or reporting requirements associated with onshore oil and gas exploration and development or other information collection requirements as defined in 5 CFR part 1320. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and its implementing regulations at 5 CFR part 1320 do not apply.

Dated: February 9, 2007.

**Abigail R. Kimbell,**

*Chief, Forest Service.*

## Text of Directive

**Note:** The Forest Service organizes its directive system by alpha-numeric codes and subject headings. Only the section of the FSH 1909.15, Environmental Policy and Procedures Handbook, affected by this directive is included in this notice. Please note, however, that category 16 is reserved. A notice for comment was published for category 16 on January 5, 2005, (70 FR 1062). A final directive for this categorical exclusion has not been adopted as of the date of publication of this **Federal Register** notice. The complete text of FSH 1909.15, chapter 30 may obtained by contacting the individuals listed in **FOR FURTHER INFORMATION CONTACT** or from the Forest Service home page on the World Wide Web at *www.fs.fed.us/im/directives/fsh/1909.15/1909.15_30.doc*. The intended audience for this direction is Forest Service employees charged with planning and administering oil and gas exploration and development projects on NFS lands under Federal lease.

## FSH 1909.15—Environmental Policy and Procedures Handbook

### CHAPTER 30—CATEGORICAL EXCLUSION FROM DOCUMENTATION

Add new paragraph 17 as follows:

*31.2—Categories of Action for Which a Project or Case File and Decision Memo Are Required.*

Routine, proposed actions within any of the following categories may be excluded from documentation in an EIS or an EA; however, a project or case file is required and the decision to proceed must be documented in a decision memo (sec. 32). As a minimum, the project or case file should include any records prepared, such as: The names of interested and affected people, groups, and agencies contacted; the determination that no extraordinary circumstances exist; a copy of the decision memo (sec 05); and a list of the people notified of the decision. Maintain a project or case file and

prepare a decision memo for routine, proposed actions within any of the following categories:

* * * * *

17. Approval of a Surface Use Plan of Operations for oil and natural gas exploration and initial development activities, associated with or adjacent to a new oil and/or gas field or area, so long as the approval will not authorize activities in excess of any of the following:

a. One mile of new road construction.

b. One mile of road reconstruction.

c. Three miles of individual or co-located pipelines and/or utilities disturbance.

d. Four drill sites.

[FR Doc. E7–2617 Filed 2–14–07; 8:45 am]

BILLING CODE 3410–11–P

## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

### Notice of a Public Meeting on Administration of the Business and Industry Guaranteed Loan Program and the Section 9006 Renewable Energy Systems and Energy Efficiency Improvements Loan and Grant Program

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Rural Business-Cooperative Service (RBS), an agency within the USDA Rural Development Mission area, will hold a public meeting entitled ''The Rural Development Lenders Conference.'' The purpose of this event is to provide an open forum to solicit feedback on the delivery of the Business and Industry and Section 9006 Renewable Energy Systems and Energy Efficiency Improvement Guaranteed Loan Programs in an effort to be more responsive to our customers.

**DATES:** The meeting will be held on March 8, 2007. Pre-registration will begin promptly at 8:30 a.m. EST and the program will begin at 9 a.m. and will conclude by 12:30 p.m.

**ADDRESSES:** 1400 Independence Avenue, SW., Whitten Building, U.S. Department of Agriculture, Washington, DC. Participants should enter the building through the National Mall entrance located on Jefferson Drive. A State or Government-issued valid photo identification (i.e., driver's license) is required for clearance by building security personnel. A Rural Development representative will be available to direct you to the conference room.

Instructions for Participation: Although pre-registration is encouraged, walk-ins will be accommodated to the extent that space permits. Registered participants will be given priority for making presentations prior to walk-ins. Anyone interested in providing feedback to improve program administration is encouraged to attend the public meeting. To register and request time for an oral statement, please visit *http://www.rurdev.usda.gov/rbs/busp/rdlendersconf.htm.* The deadline for pre-registration is March 5, 2007. Written comments are also encouraged and can be submitted in advance of the public meeting or provided at the meeting. To submit advanced comments by e-mail, send to *lenders.conf@wdc.usda.gov.* If you have problems accessing the Web site, please send an e-mail to the address above.

*The Agency is especially interested in comments on the following topics:*

1. Effectiveness of the Agency's outreach activities.

2. Equity requirements. Other ways to achieve the objective.

3. Suggestions for improving, streamlining, or simplifying the application process for these programs.

4. Other recommendations for improving the delivery of these programs.

**FOR FURTHER INFORMATION CONTACT:** Kenya Nicholas, Business Programs, RBS, Room 6847 South Agriculture Building, Stop 3224, 1400 Independence Avenue, SW., Washington, DC 20250–3224, *Telephone:* 202–720–1970.

**SUPPLEMENTARY INFORMATION:** The oral and written information obtained from interested parties will be considered in improving program administration of the Business and Industry Program and the Section 9006 Renewable Energy Systems and Energy Efficiency Improvements Program. In order to assure that these programs are meeting constituent needs, RBS is sponsoring a listening forum and soliciting written comments to encourage public participation in gathering feedback and comments and in making recommendations on program improvement. All comments are welcome.

Those who wish to make oral presentations should restrict their presentation to 10 minutes and are encouraged to have written copies of their complete comments, including exhibits, for inclusion in the Agency record. Those who register their attendance at the meeting, but have not requested in advance to present oral testimony, will be given an opportunity to do so as time permits. Otherwise, the opportunity will be given to submit their views in writing either at or within 15 days of the meeting. Participants who require a sign language interpreter or other special accommodations should contact Kenya Nicholas as directed above.

Dated: February 8, 2007.

**Jackie J. Gleason,**

*Administrator, Rural Business-Cooperative Service.*

[FR Doc. E7–2618 Filed 2–14–07; 8:45 am]

BILLING CODE 3410–XY–P

## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

### Performance Review Board Membership

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Notice.

**SUMMARY:** Notice is given of the appointment of members to a performance review board for Architectural and Transportation Barriers Compliance Board.

**FOR FURTHER INFORMATION CONTACT:** Lawrence W. Roffee, Executive Director, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., Suite 1000, Washington, DC 20004–1111. Telephone (202) 272–0001.

**SUPPLEMENTARY INFORMATION:** Section 4314 (c) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service (SES) performance review boards. The function of the boards is to review and evaluate the initial appraisal of senior executives' performance and make recommendations to the appointing authority relative to the performance of these executives. Because of its small size, the Architectural and Transportation Barriers Compliance Board has appointed SES career appointees from other Federal boards to serve on its performance review board. The members of the performance review board for the Architectural and Transportation Barriers Compliance Board are:

- Mary L. Johnson, General Counsel, National Mediation Board.
- Gary Thatcher, Associate Director, International Broadcasting Bureau.

• Lee Wilson, Executive Director, The Committee for Purchase From People Who Are Blind or Severely Disabled.

**Lawrence W. Roffee,**

*Executive Director, Architectural and Transportation Barriers Compliance Board.*

[FR Doc. E7–2596 Filed 2–14–07; 8:45 am]

BILLING CODE 8150–01–P

## DEPARTMENT OF COMMERCE

## Foreign Trade Zones Board

### Order No. 1499

### Removal of Restriction

### Foreign–Trade Subzone 29F, Hitachi Automotive Products, Inc., (Automotive Components), Harrodsburg, Kentucky

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board (the Board) adopts the following Order:

WHEREAS, Board Order 497 (56 FR 674, 1–8–1991) granted authority on behalf of Hitachi Automotive Products, Inc. (HAP), to manufacture automotive components under FTZ procedures subject to a restriction requiring that privileged foreign status must be elected on all foreign–origin inputs admitted to the subzone used in the manufacture of commodity–type (standard technology) automotive components;

WHEREAS, HAP, operator of Subzone 29F, has requested that the restriction be removed from Board Order 497 so that HAP may admit foreign–origin inputs used in the manufacture of commodity–type automotive components to Subzone 29F under nonprivileged foreign status (19 CFR § 146.42) (FTZ Docket 17–2006, filed 4–28–2006);

WHEREAS, notice inviting public comment was given in the **Federal Register** (71 FR 26924, 5–9–2006); and,

WHEREAS, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the request is in the public interest;

NOW THEREFORE, the Board hereby approves the request, as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 5th day of February 2007.

**David M. Spooner,**

*Assistant Secretary of Commercefor Import Administration,Alternate ChairmanForeign–Trade Zones Board.*

Attest:

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. E7–2680 Filed 2–14–07; 8:45 am]

BILLING CODE 3510–DS–S

## DEPARTMENT OF COMMERCE

## Foreign–Trade Zones Board

### (Docket 5–2007)

### Foreign–Trade Zone 138 -- Columbus, Ohio, Area, Application for Reorganization/Expansion

An application has been submitted to the Foreign–Trade Zones (FTZ) Board (the Board), by the Columbus Regional Airport Authority, grantee of Foreign–Trade Zone 138, requesting authority to expand and reorganize its zone in the Columbus area, within and adjacent to the Columbus Customs and Border Protection port of entry. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on February 6, 2007.

FTZ 138 was approved on March 13, 1987 (Board Order 351, 52 FR 9319, 3/24/87) and expanded on February 23, 1994 (Board Order 685, 59 FR 10783, 3/8/94), on November 9, 1999 (Board Order 1063, 64 FR 63786, 11/22/99), on May 29, 2001 (Board Order 1166, 66 FR 32933, 6/19/01), and on December 17, 2003 (Board Order 1311, 69 FR 49, 1/2/04).

The general–purpose zone currently consists of the following sites (5,012 acres) in the Columbus area: *Site 1* consists of 4,007 total acres in Franklin and Pickaway Counties, which includes the Rickenbacker International Airport and Air Industrial Park (Site 1A–2,819 acres), Alum Creek East Industrial Park (Site 1B–236 acres), Alum Creek West Industrial Park (Site 1C–509 acres), Rickenbacker West Industrial Park (Site 1D–100 acres) (expires 12/31/08), Groveport Commerce Center (Site 1E–100 acres) (expires 12/31/08), Opus Business Center (Site 1F–145 acres) (expires 12/31/08), and Creekside Industrial Center (Site 1G–98 acres) (expires 12/31/08); *Site 2* (136 acres) -- industrial park project, McClain Road, Lima; *Site 3* (42 acres) -- Gateway Interchange Industrial Park, Chillicothe; *Site 4* (15 acres) -- Rock Mill Industrial Park, Lancaster; *Site 5* (133 acres) -- D.O. Hall Business Center, Cambridge; *Site 6* (74 acres) -- Eagleton Industrial Park, London; *Site 7* (20 acres) -- Canal Pointe Industry and Commerce Park, Village of Canal Winchester (expires 12/31/08); *Site 8* (99 acres) -- Gateway Business Park--West Campus, City of Grove City (expires 12/31/08); *Site 9* (100 acres) -- Etna Corporate Park, Etna Township (expires 12/31/08); *Site 10* (49 acres) -- Central Ohio Aerospace and Technology Center Campus, City of Heath (expires 12/31/08); Site 11 (49 acres) -- Logan–Hocking Industrial Park, City of Logan (expires 12/31/08); *Temporary Site 1* (31 acres) -- Marion Industrial Park, 1110 Cheney Avenue, Marion (expires 9/1/08); *Temporary Site 2* (41 acres) -- Capital Park South, 3125–3325 Lewis Centre Way, Grove City (expires 9/1/08); *Temporary Site 3* (97 acres) -- three parcels located at 700 Manor Park, 330 Oak Street and 1809 Wilson Road, Columbus (expires 9/1/08); *Temporary Site 4a* (29 acres) -- within Rock Mill Industrial Park, 1115 West Fifth Avenue, Lancaster (expires 9/1/08); *Temporary Site 5* (14 acres) -- Southpointe Industrial Park, 3901 Gantz Road, Grove City (expires 9/1/08); *Temporary Site 6* (8 acres) -- Groveport Commerce Center, 6295 Commerce Drive, Groveport (expires 9/1/08); *Temporary Site 7* (45 acres) -- located at 4545 Fisher Road, Columbus (expires 9/1/08); and, *Temporary Site 8* (23 acres) -- within Canal Pointe Industry and Commerce Park, 8170 Dove Parkway, Canal Winchester (expires 9/1/08).

The applicant is now requesting authority for a reorganization and expansion of the zone, which includes both additions and deletions with an overall increase of 183.5 acres in total zone space as described below:

-- Modify existing Site 1A by deleting 7 acres within the industrial park (Building 21, 2195 Wright Brothers Avenue, Columbus) and restore 109 acres to zone status (new total acreage - 2921 acres);

-- Expand Site 1E to include an additional 13 acres and to include Temporary Site 6 (8 acres) on a permanent basis (new total acreage - 121 acres);

-- Reorganize Site 1G–Areas 3 and 4 due to shifts in utility easements (net reduction of 0.5 acres) and remove Site 1G–Area 6 (1 acre located at 2605 Rohr Road, Lockburne) from the site due to changed circumstances (new total acreage - 96.5 acres);

-- Expand Site 4 to restore 29 acres to zone status and to include Temporary Site 4A (29 acres) on a permanent basis

as proposed Site 4B (new total acreage - 73 acres);

-- Expand Site 7 to restore 23 acres to zone status and to include Temporary Site 8 (23 acres) on a permanent basis (new total acreage - 66 acres);

-- Make Temporary Site 1 permanent as proposed Site 12;

-- Make Temporary Site 2 permanent as proposed Site 13;

-- Make Temporary Site 5 permanent as proposed Site 14 and expand to include an additional 13 acres (new total acreage - 27 acres); and,

-- Make Temporary Site 7 permanent as proposed Site 15 and expand to include an additional 5 acres (new total acreage - 50 acres).

No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case–by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 16, 2007. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to May 1, 2007).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations: U.S. Department of Commerce Export Assistance Center, 401 N. Front Street, Suite 200, Columbus, OH 43215; and, Office of the Executive Secretary, Foreign–Trade Zones Board, Room 2814B, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, DC 20230.

For further information, contact Camille Evans at Camille__Evans@ita.doc.gov or (202) 482–2350.

Dated: February 8, 2007.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. E7–2681 Filed 2–14–03; 8:45 am]

BILLING CODE 3510–DS–S

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### Materials Processing Equipment Technical Advisory Committee; Notice of Open Meeting

The Materials Processing Equipment Technical Advisory Committee (MPETAC) will meet on March 8, 2007 at 9 a.m. in Room 3884 of the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

**Agenda**

1. Opening Remarks and Introductions.
2. Presentation of Papers and Comments by the Public.
3. Report on Wassenaar Experts Meeting.
4. Discussion of MPETAC 2007 Proposal.
5. MPETAC Future Activities.
6. Report on Proposed Changes to the Export Administration Regulation.
7. Other Business.

The meeting will be open to the public and a limited number of seats will be available. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to Yvette Springer at *Yspringer@bis.doc.gov.*

For more information, please contact Ms. Springer at 202–482–2813.

Dated: February 9, 2007.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 07–701 Filed 2–14–07; 8:45 am]

BILLING CODE 3510–JT–M

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet March 6, 2007, 9 a.m., Room 4830, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

**Agenda**

*Public Session*

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the Public.
3. Opening remarks by BIS.
4. Update on Wassenaar Statement of Understanding on Military End-uses (China 'catch-all') and Validated End-user (VEU)
5. Regulations update.
6. Country policy updates.
7. Encryption update.
8. Export Enforcement update.
9. Automated Export System (AES) update.
10. Working group reports.

*Closed Session*

11. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 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 that 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 the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to 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 January 28, 2007, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 §§ 10(d)), that the portion of the meeting dealing with matters the disclosure of portion of the meeting dealing with 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 §§ 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: February 9, 2007.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 07–702 Filed 2–14–07; 8:45 am]

BILLING CODE 3510–JT–M

**DEPARTMENT OF COMMERCE**

**INTERNATIONAL TRADE ADMINISTRATION**

**[A–570–846]**

## Brake Rotors From the People's Republic of China: Preliminary Results of the 2005–2006 Administrative and New Shipper Reviews and Partial Rescission of the 2005–2006 Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (''the Department'') is currently conducting the 2005–2006 administrative and new shipper reviews of the antidumping duty order on brake rotors from the People's Republic of China (''PRC''). We preliminarily determine that sales have been made below normal value (''NV'') with respect to certain exporters who participated fully and are entitled to a separate rate in the administrative or new shipper review. If these preliminary results are adopted in our final results of these reviews, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the period of review (''POR'') for which the importer-specific assessment rates are above *de minimis*.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** February 15, 2007.

**FOR FURTHER INFORMATION CONTACT:** Ann Fornaro or Blanche Ziv, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3927 or (202) 482–4207, respectively.

### Background

On April 17, 1997, the Department published in the **Federal Register** the antidumping duty order on brake rotors from the PRC. *See Notice of Antidumping Duty Order: Brake Rotors from the People's Republic of China,* 62 FR 18740 (April 17, 1997) (''*the Order*'').

### New Shipper Review

On March 16, 2006, Qingdao Golrich Autoparts Co., Ltd. (''Golrich'') requested a new shipper review of the antidumping duty order on brake rotors from the PRC, which has an April anniversary month, in accordance with 19 CFR 351.214(c). In response to the Department's May 4, 2006, request for information, Golrich provided supplemental information on May 16, 2006. On May 30, 2006, the Department initiatd a new shipper review of Golrich covering the period April 1, 2005, through March 31, 2006. *See Brake Rotors From the People's Republic of China: Initiation of New Shipper Antidumping Duty Review,* 71 FR 30655 (May 30, 2006). On May 30, 2006, the Department issued a new shipper antidumping duty questionnaire to Golrich.

On July 11, 2006, the Department received Golrich's Sections A, C and D response. On July 27, 2006, the Department received Golrich's Importer-Specific Questionnaire response. On August 18, October 10, and October 27, 2006, the Department issued supplemental questionnaires to Golrich and received responses to these supplemental questionnaires on September 15, October 24, and November 1, 2006, respectively. On August 22, 2006, the Department placed on the record of the new shipper review copies of CBP documents pertaining to the entry of brake rotors from the PRC exported to the United States by Golrich during the POR.[1]

On August 11, 2006, we requested that the Office of Policy issue a surrogate-country memorandum for the selection of the appropriate surrogate countries for this new shipper review.[2] On August 23, 2006, the Office of Policy provided a list of five countries at a level of economic development comparable to that of the PRC for the POR.[3] On August 24 and September 12, 2006, the Department invited all interested parties to submit comments on surrogate-country selection and to submit publicly available information as surrogate values for purposes of calculating NV.[4] *See* ''Surrogate Country'' section below. On September 14, 2006, Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers (''petitioners'') submitted publicly available information for use as surrogate values in the calculation of NV in the 2005–2006 administrative and new shipper reviews. On November 21, 2006, the Department selected India as the most appropriate surrogate country for the purpose of this new shipper review.[5] On October 2, 2006, Golrich submitted rebuttal comments on petitioners' September 14, 2006, surrogate value submission.

On October 2, 2006, Golrich agreed to waive the new shipper review time limits in accordance with 19 CFR 351.214(j)(3), to align the new shipper review with the concurrent 2005–2006 administrative review of brake rotors from the PRC. On October 4, 2006, the Department aligned the new shipper review with the 2005–2006 administrative review of brake rotors from the PRC.[6]

On October 25, 2006, the Department issued a verification agenda to Golrich.[7] On November 14 through 16, 2006, the Department verified the sales and factors-of-production (''FOP'') responses of Golrich at its factory in Qingdao, Shandong, PRC. On January 24, 2007, the Department issued the verification report for Golrich.[8]

[1] *See* Memorandum to the File from Ann Fornaro, International Trade Compliance Analyst, entitled, ''2005–2006 New Shipper Review of Brake Rotors from the People's Republic of China, Results of Request for Assistance from U.S. Customs and Border Protection on U.S. Entry Documents,'' dated August 22, 2006.

[2] *See* Memorandum to Ronald Lorentzen, Director, Office of Policy, from Wendy J. Frankel, Director, Office 8, AD/CVD Operations, entitled, ''Surrogate-Country Selection: 2005–2006 New Shipper Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China,'' dated August 11, 2006.

[3] *See* Memorandum to Wendy J. Frankel, Director, Office 8, AD/CVD Operations, from Ronald Lorentzen, Director, Office of Policy, entitled, ''New Shipper Review of Brake Rotors from the People's Republic of China (PRC): Request for a List of Surrogate Countries'' (''NSR Surrogate-Country Memo'').

[4] *See* Letter to All Interested Parties from Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, requesting parties to provide surrogate factors-of-production values from the potential surrogate countries (i.e., India, Sri Lanka, Indonesia, the Philippines and Egypt), dated August 24, 2006, and Letter to All Interested Parties from Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, regarding surrogate-country selection, dated September 12, 2006.

[5] *See* Memorandum to the File from Ryan Douglas, International Trade Compliance Analyst, through Blanche Ziv, Program Manager, Office 8, AD/CVD Operations, through Wendy Frankel, Director, Office 8, AD/CVD Operations, entitled, ''Brake Rotors from the People's Republic of China: Surrogate-Country Selection Memorandum for the 2005–2006 Administrative and New Shipper Reviews,'' dated November 21, 2006 (''Surrogate Country Selection Memo'').

[6] *See* Memorandum to the File from Ryan A. Douglas, International Trade Compliance Analyst, through Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, entitled ''Brake Rotors from the People's Republic of China: Alignment of 2005–2006 Administrative and New Shipper Reviews,'' dated October 4, 2006.

[7] *See* Letter from Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, to Qingdao Golrich Autoparts Co., Ltd., dated October 25, 2006.

[8] *See* Memorandum to the File from Ann Fornaro and Jennifer Moats, International Trade Compliance Analysts, through Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, and Wendy J. Frankel, Director, Office 8, AD/CVD Operations, entitled ''Verification of the Sales and Factors Response of Qingdao Golrich Autoparts Co., Ltd. in

Continued

**Administrative Review**

On April 3, 2006, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on brake rotors from the PRC. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 71 FR 16549 (April 3, 2006).

On April 28, 2006, the Department received timely requests for an administrative review of this antidumping duty order in accordance with 19 CFR 351.213 from Laizhou Auto Brake Equipment Co., Ltd.[9] (''LABEC''); Yantai Winhere Auto-Part Manufacturing Co., Ltd. (''Winhere''); Longkou Haimeng Machinery Co., Ltd. (''Haimeng''); Laizhou Hongda Auto Replacement Parts Co., Ltd. (''Hongda''); Hongfa Machinery (Dalian) Co., Ltd. (''Hongfa''); Qingdao Meita Automotive Industry Co., Ltd. (''Meita''); and Shandong Huanri Group General Co., Laizhou Huanri Automobile Parts Co., Ltd., and Shandong Huanri Group Co., Ltd. (collectively, ''Huanri''). The Department also received a timely request for an administrative review of 27 companies (or producer/exporter combinations),[10] from petitioners on May 1, 2006. On May 15, 2006, petitioners submitted an amendment to this request for an administrative review, stating that the name China National Machinery Import & Export Company should be corrected to China National Industrial Machinery Import & Export Company and that Laizhou Luqi Machinery Co., Ltd. is the same company as Laizhou Luqi Machinery Co.

On May 31, 2006, the Department initiated an administrative review of the antidumping duty order on brake rotors from the PRC for 27 individually named firms, for the POR of April 1, 2005, through March 31, 2006. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 71 FR 30864 (May 31, 2006) (''*AR Initiation Notice*''). Of the 27 companies for which the Department initiated a review, we received seven requests for rescission of review between May 31 and July 6, 2006, based on claims of no shipments.[11] *See* ''Preliminary Partial Rescission of 2005–2006 Administrative Review'' section below. Because the Department previously determined that Laizhou Auto Brake Equipment Co., Ltd. is the successor-in-interest to Laizhou Auto Brake Equipments Factory,[12] for purposes of this proceeding, we continue to consider these two companies as the same entity (*i.e.*, Laizhou Auto Brake Equipment Co., Ltd.). Similarly, the Department determined in a changed circumstances review that Shandong Huanri Group Co., Ltd. was the successor-in-interest to Shandong Huanri Group General Company for purposes of determining antidumping duty liability.[13] We also note that in a prior review, the Department treated Laizhou Huanri Automobile Co., Ltd. as part of the Shandong Huanri Group General Company.[14] Thus, for purposes of determining the pool of respondents in the current review, we consider Laizhou Huanri Automobile Co., Ltd. and Shandong Huanri Group General Company to be a single respondent.

Due to the large number of participating firms subject to this administrative review, and the Department's experience regarding the administrative burden of reviewing each company for which a request was made, the Department exercised its authority to limit the number of mandatory respondents selected for individual review pursuant to section 777A(c)(2) of the Tariff Act of 1930, as amended (''the Act''), by selecting exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. On June 16, 2006, the Department issued letters to all firms named in the *AR Initiation Notice* requesting information on the quantity and value (''Q&V'') of sales of subject merchandise to the United States during the POR. The Department issued letters to two companies (*i.e.*, Laizhou CAPCO Machinery Co., Ltd. and Laizhou Luyuan) to clarify reported Q&V information covered by this administrative review on September 28 and October 12, 2006, respectively. On August 18, 2006, based on reported export volumes of subject merchandise during the POR, the Department selected the three largest companies by volume, *i.e.*, Haimeng, Winhere and Meita, as the three mandatory respondents in this review. The remaining 12 respondents are non-selected respondents.[15] *See* ''Separate Rates'' section below. On August 18, 2006, we issued antidumping duty questionnaires to Haimeng, Meita and Winhere.

On August 24, 2006, the Department placed on the record of this review copies of CBP documents pertaining to entries of brake rotors from the PRC exported to the United States by Hongfa and CAPCO during the POR.[16] On September 19, 2006, Hongfa submitted additional information regarding the CBP documentation. *See* ''Preliminary Partial Rescission of 2005–2006 Administrative Review'' section below.

On August 11, 2006, we requested that the Office of Policy issue a surrogate-country memorandum for the selection of the appropriate surrogate

the 2005–2006 New Shipper Review of Brake Rotors from the People's Republic of China,'' dated January 24, 2007 (''Golrich Verification Report'').

[9] The Department received a request from petitioners to review Laizhou Auto Brake Equipment Company. However, we have determined from the respondent that the correct name for this company is Laizhou Auto Brake Equipment Co., Ltd.

[10] The names of these exporters are as follows: (1) China National Industrial Machinery Import & Export Corporation (''CNIM''); (2) Laizhou Auto Brake Equipment Co., Ltd. (''LABEC''); (3) Qingdao Gren Co. (''Gren''); (4) Winhere; (5) Haimeng; (6) Zibo Luzhou Automobile Parts Co., Ltd. (''ZLAP''); (7) Hongda; (8) Hongfa; (9) Meita; (10) Longkou TLC Machinery Co., Ltd. (''Longkou TLC''); (11) Zibo Golden Harvest Machinery Limited Company (''ZGOLD''); (12) Xianghe Xumingyuan Auto Parts Co. (''Xumingyuan''); (13) Xiangfen Hengtai Brake System Co., Ltd. (''Hengtai''); (14) Laizhou City Luqi Machinery Co., Ltd. (''Luqi''); (15) Qingdao Rotec Auto Parts Co., Ltd. (''Rotec''); (16) Shenyang Yinghao Machinery Co. (''Yinghao''); (17) Longkou Jinzheng Maxhinery (sic) Co. (''Jinzheng''); (18) Laizhou Wally Automobile Co., Ltd. (''Wally''); (19) Shanxi Zhongding Auto Parts Co., Ltd. (''Zhongding''); (20) Laizhou Luqi Machinery Co.; (21) Shandong Huanri Group Co., Ltd. (''Huanri''); (22) China National Automotive Industry Import & Export Corporation (''CAIEC''), excluding entries manufactured by Shandong Laizhou CAPCO Industry (''CAPCO''); (23) CAPCO, excluding entries manufactured by CAPCO; (24) Laizhou Luyuan Automobile Fittings Co. (''Laizhou Luyuan''), excluding entries manufactured by Laizhou Luyuan or Shenyang Honbase Machinery Co., Ltd. (''Honbase''); (25) Honbase, excluding entries manufactured by Laizhou Luyuan or Honbase; (26) Laizhou Auto Brake Equipment Factory; and (27) Shandong Huanri Group General Company.

[11] These seven companies are Hongfa, Wally, Xumingyuan, CAIEC, CAPCO, Luyuan, and Honbase.

[12] *See Brake Rotors From the People's Republic of China: Final Results of Changed-Circumstances Antidumping Duty Administrative Review,* 66 FR 37211 (July 17, 2001).

[13] *See Brake Rotors From the People's Republic of China: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 70 FR 69941 (November 18, 2005) (''*Brake Rotors Changed Circumstances Seventh*''). *See also, Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of Fifth New Shipper Review*, 66 FR 29080 (May 29, 2001).

[14] *See Brake Rotors Changed Circumstances Seventh* at 69942.

[15] *See* Memorandum to Wendy J. Frankel, Director, Office 8, AD/CVD Operations, from Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, entitled, ''Antidumping Duty Administrative Review of Brake Rotors from the People's Republic of China: Selection of Respondents,'' dated August 18, 2006.

[16] *See* Memorandum to the File from Ann Fornaro, International Trade Compliance Analyst, entitled, ''2005–2006 Administrative Review of Brake Rotors from the People's Republic of China, Results of Request for Assistance from U.S. Customs and Border Protection on U.S. Entry Documents,'' dated August 24, 2006.

countries for this review.[17] On August 23, 2006, the Office of Policy provided a list of five countries at a level of economic development comparable to that of the PRC for the POR of this review.[18] On August 24 and September 12, 2006, the Department invited all interested parties to submit comments on surrogate-country selection and to submit publicly available information as surrogate values for purposes of calculating NV.[19] *See* ''Surrogate Country'' section below. On November 21, 2006, the Department selected India as the most appropriate surrogate country for the purpose of this administrative review.[20]

On September 14, 2006, petitioners submitted publicly available information for use as surrogate values in the calculation of NV in the administrative and new shipper reviews. Also, on September 14, 2006, Haimeng, Meita, Winhere, LABEC, Hongda, and Luqi submitted publicly available information for use as surrogate values in the calculation of NV in the administrative review. On September 25, 2006, petitioners submitted rebuttal comments to the aforementioned respondents' September 14, 2006, filing. On October 5, 2006, Haimeng, Meita, Winhere, LABEC, Hongda, and Luqi submitted rebuttal comments to petitioners'' comments.

On October 3, 2006, we received questionnaire responses from Haimeng, Winhere, and Meita. The Department issued supplemental questionnaires to Haimeng, Meita, and Winhere on October 13, November 30, and December 12, 2006, respectively. We received supplemental questionnaire responses from Haimeng, Meita, and Winhere on October 30, December 14, 2006, and January 8, 2007, respectively.

On October 25, 2006, the Department issued verification outlines to Haimeng and TLC. The Department conducted verification of the responses of Haimeng from November 6 through 10, 2006, and of TLC on November 13, 2006. On January 24 and 26, 2007, the Department released the verification reports for TLC and Haimeng, respectively.[21] For further information, *see* the ''Verification'' section below.

**Period of Review**

The POR is April 1, 2005, through March 31, 2006.

**Scope of the Order**

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: Automobiles, all-terrain vehicles, vans and recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') which produces vehicles sold in the United States. (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in this order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are currently classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* (''HTSUS'').[22] Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

**Separate Rates**

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control, and thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of subject merchandise subject to review in an NME country a single rate unless an exporter can demonstrate that it is sufficiently independent of government control to be entitled to a separate rate. See, *e.g., Honey from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review,* 70 FR 74764, 74766 (December 16, 2005) (unchanged in the final results).

For the administrative review, in order to demonstrate separate-rate status eligibility, the Department required entities, for whom a review was requested, and that were assigned a separate-rate in the previous segment of this proceeding, to submit a separate-rate certification stating that they continue to meet the criteria for obtaining a separate rate. For entities that were not assigned a separate rate in the previous segment of this proceeding, to demonstrate eligibility for such, the Department required a separate-rate status application. The three mandatory (*i.e.*, Haimeng, Meita, and Winhere) and 12 separate-rate respondents (*i.e.*, non-selected respondents) provided company-specific information and each[23] stated that it meets the criteria for the assignment of a separate-rate.

We considered whether the respondents referenced above were eligible for a separate rate. The Department's separate-rate status test to determine whether the exporters are independent from government control does not consider, in general,

[17] *See* Memorandum to Ronald Lorentzen, Director, Office of Policy, from Wendy J. Frankel, Director, Office 8, AD/CVD Operations, entitled, ''Surrogate-Country Selection: 2005–2006 Administrative Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China,'' dated August 11, 2006 (''AR Surrogate-Country Memo'').

[18] *See* Memorandum to Wendy J. Frankel, Director, Office 8, AD/CVD Operations, from Ronald Lorentzen, Director, Office of Policy, entitled, ''Administrative Review of Brake Rotors from the People's Republic of China (PRC): Request for a List of Surrogate Countries,'' dated August 23, 2006.

[19] *See* Letter to All Interested Parties from Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, requesting parties to provide surrogate factors-of-production values from the potential surrogate countries (*i.e.*, India, Sri Lanka, Indonesia, the Philippines and Egypt), dated August 24, 2006, and Letter to All Interested Parties from Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, regarding surrogate-country selection, dated September 12, 2006.

[20] *See* Surrogate Country Selection Memo.

[21] *See* ''Verification of the Sales and Factors Response of Longkou Haimeng Machinery Co., Ltd. in the Antidumping Review of Brake Rotors from the People's Republic of China,'' dated January 26, 2007 (''Haimeng Verification Report''), and ''Verification of the Separate Rate Response of Longkou TLC Machinery Co., Ltd. in the Antidumping Review of Brake Rotors from the People's Republic of China,'' dated (January 24, 2007 (''TLC Verification Report'').

[22] 22 As of January 1, 2005, the HTS classification for brake rotors (discs) changed from 8708.39.50.10 to 8708.39.50.30. *See Harmonized Tariff Schedule of the United States (2005),* available at <*www.usitc.gov*>.

[23] The non-selected respondents are as follows: CNIM, LABEC, Gren, ZLAP, Hongda, Longkou TLC, ZGOLD, Luqi, Yinghao, Jinzheng, Zhongding, and Huanri.

macroeconomic/border-type controls (*e.g.*, export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level.[24]

To establish whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter in light of select criteria, discussed below. *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588, 20589 (May 6, 1991) (''*Sparklers*''); and *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585, 22586, 22587 (May 2, 1994) (''*Silicon Carbide*''). Under this test, exporters in NME countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control over exports, both in law (''*de jure*'') and in fact (''*de facto*'').

*1. Absence of De Jure Control*

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; or (3) any other formal measures by the government decentralizing control of companies. *See Sparklers,* 56 FR 20589. Haimeng, Winhere, Meita, CNIM, LABEC, Gren, ZLAP, Hongda, Longkou TLC, ZGOLD, Luqi, Yinghao, Jinzheng, Zhongding, and Huanri each placed on the administrative record documents to demonstrate an absence of *de jure* control (*e.g.*, the 1994 ''Foreign Trade Law of the People's Republic of China,'' and the 1999 ''Company Law of the People's Republic of China'').

As in prior cases, we analyzed the laws presented to us and found them to establish sufficiently an absence of *de jure* control over joint ventures between the PRC and foreign companies, and limited liability companies in the PRC. *See, e.g., Honey from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review,* 72 FR 102, 105 (January 3, 2007); *Hand Trucks and Certain Parts Thereof from the People's Republic of China; Preliminary Results and Partial Rescission of Administrative Review and Preliminary Results of New Shipper Review,* 72 FR 937, 944 (January 9, 2007). We have no new information in this proceeding which would cause us to reconsider this determination with regard to Haimeng, Winhere, Meita, CNIM, LABEC, Gren, ZLAP, Hongda, Longkou TLC, ZGOLD, Luqi, Yinghao, Jinzheng, Zhongding, and Huanri.

*2. Absence of De Facto Control*

As stated in previous cases, there is evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Silicon Carbide,* 59 FR at 22586, 22587. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by, or subject to the approval of, a government authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses. *See Silicon Carbide,* 59 FR at 22586–87; *see also Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995).

Haimeng, Winhere, Meita, CNIM, LABEC, Gren, ZLAP, Hongda, Longkou TLC, ZGOLD, Luqi, Yinghao, Jinzheng, Zhongding, and Huanri each asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any government entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Additionally, each of these companies' questionnaire responses indicates that its pricing during the POR does not suggest coordination among exporters.

Consequently, we preliminarily determine that Haimeng, Winhere, Meita, CNIM, LABEC, Gren, ZLAP, Hongda, Longkou TLC, ZGOLD, Luqi, Yinghao, Jinzheng, Zhongding, and Huanri have each met the criteria for the application of a separate rate based on the documentation each of these respondents has submitted on the record of these reviews.[25]

We note that in previous segments of this proceeding, the Department determined that Huanri was not entitled to a separate rate because it had not demonstrated an absence of *de facto* control by the PRC government.[26] In the instant review, Huanri reported certain changes that have resulted in the Department's determination to preliminarily grant Huanri a separate rate. *See* Separate-Rate Memo for further details and a full discussion of this issue. The Department intends to verify the information provided by Huanri in its separate-rate application following the preliminary results. We will reexamine Huanri's eligibility for a separate rate pending results of verification and will continue to examine this issue for the final results.

**Verification**

On August 29, 2006, petitioners requested that the Department conduct verification of the data submitted by all of the firms for which the Department initiated an administrative review and the new shipper, Golrich. However, due

[24] *See Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value,* 62 FR 61754, 61758 (November 19, 1997); and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 62 FR 61276, 61279 (November 17, 1997).

[25] *See* Memorandum to Wendy J. Frankel, Director, Office 8, AD/CVD Operations, from the Team through Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, entitled ''Preliminary Results 2005–2006 Antidumping Duty Administrative and New Shipper Reviews of the Antidumping Duty Order on Brake Rotors from the People's Republic of China Separate-Rate Analysis for Respondents (Including Exporters Not Being Individually Reviewed,'' dated February 9, 2007 (''Separate-Rate Memo'').

[26] In *Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the Seventh Administrative Review; Preliminary Results of the Eleventh New Shipper Review,* 70 FR 24382, 24388–89 (May 9, 2005) (''*Brake Rotors Seventh*''), we found in the course of that review that Huanri was not entitled to a separate rate because it did not demonstrate an absence of *de facto* government control. In *Brake Rotors Seventh,* the Department determined that the Panjiacun Village Committee was a form of local government in the PRC and that it was involved in export-related decisions at Huanri. Furthermore, in *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review,* 71 FR 66304, 66305 (November 14, 2006) (*''Brake Rotors 8th Final Results''*), consistent with Department practice, the Department determined that Huanri was not entitled to a separate rate because Huanri cancelled a scheduled verification, and therefore, the Department was unable to verify Huanri's response with respect to its separate-rate claim.

to the Department's resource constraints in conducting these reviews, we only selected Haimeng, TLC, Golrich, and Huanri for verification pursuant to section 782(i) of the Act and 19 CFR 351.307.

On October 25, 2006, the Department issued verification outlines to Haimeng, TLC and Golrich. The Department conducted verification of the responses of Haimeng from November 6 through 10, 2006; of TLC on November 13, 2006; and of Golrich from November 15 through 17, 2006. For the companies we verified, we used standard verification procedures, including on-site inspection of the manufacturers' and exporters' facilities, and examination of relevant sales and financial records. Our verification results are outlined in the verification report for each company. *See* Haimeng Verification Report, TLC Verification Report and Golrich Verification Report.

**Preliminary Partial Rescission of 2005–2006 Administrative Review**

With respect to Hongfa, Wally, Xumingyuan, CAIEC, CAPCO, Luyuan, and Honbase, each informed the Department that it did not export the subject merchandise to the United States during the POR in the combinations described below, where applicable. Specifically, (1) neither Hongfa nor Wally exported subject merchandise to the United States during the POR; (2) CAIEC did not export brake rotors to the United States that were manufactured by producers other than CAPCO; (3) CAPCO did not export brake rotors to the United States that were manufactured by producers other than CAPCO; (4) Luyuan did not export brake rotors to the United States that were manufactured by producers other than Luyuan or Honbase; and (5) Honbase did not export brake rotors to the United States that were manufactured by producers other than Honbase or Luyuan. In order to corroborate these submissions, we reviewed PRC brake rotor shipment data maintained by CBP. In reviewing the CBP data, we did not find any evidence contradicting Wally, Xumingyuan, CAIEC, Honbase, and Luyuan's claims of no shipments of brake rotors during the POR.

On August 24, 2006, the Department placed on the record of the administrative review CBP entry documents relating to certain shipments of subject merchandise exported by Hongfa and CAPCO. The Department analyzed the CBP documents relating to the CAPCO shipments and determined that these documents did not indicate shipments of subject merchandise during the POR. On September 19, 2006, Hongfa reaffirmed that it did not make any shipments during the POR and submitted additional information relating to its shipments, explaining that all but one shipment were brake drums incorrectly coded by the importer as brake rotors and that the one shipment of brake rotors had been reported to the Department and subject to the previous administrative review. We found no evidence contradicting the statements made by any of the above-mentioned firms.

Based on the record of this review and the results of our customs query, we cannot conclude that Hongfa, Wally, Xumingyuan, CAIEC, CAPCO, Luyuan, or Honbase sold merchandise subject to the order. For the reasons mentioned above, we are preliminarily rescinding the administrative review for these exporters in the following specified exporter/producer combinations: (1) Hongfa; (2) Wally; (3) Xumingyuan; (4) CAIEC/manufactured by any company other than CAPCO; (5) CAPCO/manufactured by any company other than CAPCO; (6) Luyuan/manufactured by any company other than Luyuan or Honbase; and (7) Honbase/manufactured by any company other than Honbase or Luyuan, because we found no evidence that any of these exporter/producer combinations made shipments of the subject merchandise during the POR, in accordance with 19 CFR 351.213(d)(3).

**Bona Fide Sale Analysis—Golrich**

In evaluating whether or not a single sale is commercially reasonable, and therefore bona fide, the Department has considered, *inter alia*, such factors as: (1) The timing of the sale; (2) the price and quantity of the sale; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arm's-length basis. *See Tianjin Tiancheng Pharmaceutical Co., Ltd.* v. *United States,* 366 F. Supp. 2d 1246 (CIT 2005) (''*TTPC*'') at 9, citing *Am. Silicon Techs.* v. *United States,* 110 F. Supp. 2d 992, 995 (CIT 2000). Therefore, the Department examines a number of factors, all of which may speak to the commercial realities surrounding the sale of subject merchandise. While some *bona fides* issues may share commonalities across various cases, each case is company-specific and the analysis may vary with the facts surrounding each sale. *See, e.g.*, *Certain Preserved Mushrooms for the People's Republic of China: Final Results and Partial Rescission of New Shipper Review and Administrative Reviews,* 68 FR 41304 (July 11, 2003). The weight given to each factor investigated will depend on the circumstances surrounding the sale. *See TTPC,* 366 F. Supp at 1263.

For the reasons stated below, we preliminarily find that Golrich's reported U.S. sale during the POR appears to be a *bona fide* sale, as required by 19 CFR 351.214(b)(2)(iv)(c), based on the totality of the facts on the record. Specifically, we do not find that the difference in quantity or average price for Golrich's sale compared to the average quantity and unit value of U.S. imports of comparable brake rotors from the PRC during the POR together with the totality of circumstances surrounding the sale at issue indicate the sale to be aberrational. We also examined information placed on the record by Golrich, Golrich's customer for the POR sale, and information developed independently by the Department regarding Golrich's customer for the POR sale and circumstances surrounding the POR sale. We found no evidence that the POR sale under review is not a *bona fide* sale.[27] Therefore, for the reasons mentioned above, the Department preliminarily finds that Golrich's U.S. sale during the POR was a *bona fide* commercial transaction.

**Non-Market Economy Country**

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See, e.g.*, *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review,* 71 FR 7013 (February 10, 2006). None of the parties to these proceedings has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

**Surrogate Country**

Section 773(c)(1) of the Act directs the Department to base NV on the NME producer's factors of production, valued in a surrogate market economy country or countries considered to be appropriate by the Department. In

[27] For further information, *see* Memorandum from Ann Fornaro, International Trade Compliance Analyst, through Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, to Wendy J. Frankel, Director, Office 8, AD/CVD Operations, entitled ''2005–2006 New Shipper Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China: Bona Fide Analysis of Qingdao Golrich Autoparts Co., Ltd.,'' dated February 9, 2007.

accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall use, to the extent possible, the prices or costs of factors of production in one or more market economy countries that (1) Are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department determined that India, Sri Lanka, Egypt, the Philippines, and Indonesia are countries comparable to the PRC in terms of economic development.[28] Customarily, we select an appropriate surrogate country from the surrogate-country memo based on the availability and reliability of data from the countries that are significant producers of comparable merchandise. In this case, based on publicly available information placed on the record (*e.g.*, export data), we found that India is a significant producer of the subject merchandise.[29] Accordingly, we selected India as the primary surrogate country for purposes of valuing the factors of production in the calculation of NV because it meets the Department's criteria for surrogate-country selection. *See Id.* Where Indian data was not available, the Department calculated the surrogate value using World Trade Atlas (''WTA''), available at *http://www.gtis.com/wta.htm* import statistics from the Philippines. The Philippines import data represents cumulative values for fiscal year 2005.[30] We obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in antidumping administrative and new shipper reviews, interested parties may submit publicly available information to value factors of production within 20 days after the date of publication of these preliminary results.

**Facts Available—Rotec, Hengtai, and Golrich**

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply ''facts otherwise available'' if, *inter alia,* necessary information is not on the record or an interested party or any other person: (A) Withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot serve as a reliable basis, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (''AFA'') information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* Statement of Administrative Action (''SAA'') accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). ''Corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *See* SAA at 869.

For the reasons discussed below, we determine that, in accordance with sections 776(a)(2) and 776(b) of the Act, the use of AFA is warranted for the preliminary results for the PRC-wide entity, including Hengtai and Rotec.

Rotec did not respond to our June 16, 2006, Q&V questionnaire.[31] In the *AR Initiation Notice*, the Department stated that if one of the named companies does not qualify for a separate rate, all other exporters of brake rotors from the PRC who have not qualified for a separate rate are deemed to be part of the single PRC-wide entity, of which the named exporter is part. *See AR Initiation Notice* at n.1. Hengtai responded to our June 16, 2006, Q&V questionnaire but did not respond to our August 4, 2006, separate-rate application/certification letter, which provided Hengtai an opportunity to demonstrate its eligibility for a separate rate in this administrative review.[32] Additionally, Hengtai did not respond to the Department's September 19, 2006, letter. Because Rotec and Hengtai did not submit any information to establish their eligibility for a separate rate, we find they are deemed to be part of the PRC-wide entity. *See* ''Separate Rates'' section above. *See also, AR Initiation Notice* at n1.

At verification, Golrich provided minor corrections for the reported weights of 11 of the 18 boxes used to pack the subject merchandise it sold during the POR. For each of these 11

[28] *See* NSR Surrogate-Country Memo and AR Surrogate-Country Memo (collectively, ''Surrogate-Country Memos'').

[29] *See* Surrogate Country Selection Memo.

[30] For further information, *see* Memorandum to the File from the Team through Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, entitled, ''2005–2006 Administrative and New Shipper Reviews of Brake Rotors from the People's Republic of China: Factor Valuations for the Preliminary Results,'' dated February 9, 2007 (''Factor Valuation Memo'').

[31] *See* Memorandum from Ann Fornaro, International Trade Compliance Analyst, to Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, entitled, ''2005–2006 Administrative Review of the Antidumping Duty Order on Brake Rotors From the People's Republic of China: Responses to Questionnaire,'' dated August 11, 2006.

[32] In the Department's September 19, 2006, letter to Hengtai, we stated that, due to the lack of cooperation and responsiveness from Hengtai in providing the information we requested, we may resort to the use of facts available with an adverse inference for purposes of this administrative review, pursuant to sections 776(1) and 776(b) of the Act. *See* Letter from Wendy J. Frankel, Director, Office 8, AD/CVD Operations, to Hengtai, dated September 19, 2006.

boxes, we were able to verify the revised weights presented as minor corrections by Golrich. However, we could not verify the reported weights of the remaining seven boxes used because Golrich could not present these boxes to the Department at verification. We were, therefore, unable to verify the reported unit weights of these seven boxes. To value these seven boxes, we adjusted the reported weight amounts of those boxes by the company's largest percentage increase presented at verification for the other boxes.[33]

**The PRC-Wide Rate and Use of AFA**

Because we have determined that Hengtai and Rotec are not entitled to separate rates and are now part of the PRC-wide entity, the PRC-wide entity (including Hengtai and Rotec) is now under review. The PRC-wide entity did not respond to our requests for information. Because the PRC-wide entity did not respond to our requests for information, we find it necessary under section 776(a)(2) of the Act to use facts available as the basis for these preliminary results. Because the PRC-wide entity provided no information, we determine that sections 782(d) and (e) of the Act are not relevant to our analysis. We further find that the PRC-wide entity (including Hengtai and Rotec) failed to respond to the Department's requests for information and, therefore, did not cooperate to the best of its ability. Therefore, because the PRC-wide entity did not cooperate to the best of its ability in the proceeding, the Department finds it necessary to use an adverse inference in making its determination, pursuant to section 776(b) of the Act.

**Selection of the Adverse Facts Available Rate**

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any other information placed on the record. It is the Department's practice to select, as AFA, the highest calculated rate in any segment of the proceeding. *See, e.g.*, *Certain Cased Pencils from the People's Republic of China; Notice of Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind in Part,* 70 FR 76755, 76761 (December 28, 2005).

The Court of International Trade (''CIT'') and the Court of Appeals for the Federal Circuit (''Federal Circuit'') have consistently upheld the Department's practice. *See Rhone Poulenc, Inc.* v. *United States,* 899 F. 2d 1185, 1190 (Fed. Cir. 1990) (upholding the Department's presumption that the highest margin was the best information of current margins) (''*Rhone Poulenc*''); *NSK Ltd.* v. *United States,* 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a less-than-fair-value (''LTFV'') investigation); *Kompass Food Trading International* v. *United States,* 24 CIT 678, 683 (2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd.* v. *United States,* 360 F. Supp. 2d 1339, 1348 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870. *See also, Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (November 18, 2005). In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondents' prior commercial activity, selecting the highest prior margin ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *See Rhone Poulenc,* 899 F. 2d at 1190.

Due to Hengtai's and Rotec's failure to cooperate in this administrative review, we have preliminarily assigned the PRC-wide entity, of which they are deemed to be a part, an AFA rate of 43.32 percent, which is the PRC-wide rate determined in the investigation and the rate currently applicable to the PRC-wide entity. *See Brake Rotors 8th Final Results* at 66307.

The Department preliminarily determines that this information is the most appropriate from the available sources to effectuate the purposes of AFA. The Department's reliance on the PRC-wide rate from the original investigation to determine an AFA rate is subject to the requirement to corroborate secondary information. *See* Section 776(c) of the Act and the ''Corroboration of Facts Available'' section below.

**Corroboration of Facts Available**

Section 776(c) of the Act provides that, where the Department selects from among the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. Secondary information is described in the SAA as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* SAA at 870. The SAA states that ''corroborate'' means to determine that the information used has probative value. The Department has determined that to have probative value, information must be reliable and relevant. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See* SAA at 870. *See also, Notice of Preliminary Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 35627,

[33] For further information on the valuation of Golrich's boxes, *see* Golrich Verification Report and Memorandum to the File from Ann Fornaro, International Trade Compliance Analyst, through Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, entitled, ''Analysis for the Preliminary Results of the 2005–2006 Antidumping Duty Administrative Review of Brake Rotors from the People's Republic of China: Qingdao Golrich Autoparts Co., Ltd.'' (''Golrich Calculation Memo'').

35629 (June 16, 2003); and *Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada*, 70 FR 12181, 12183 (March 11, 2005).

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, the Department disregarded the highest margin as adverse best information available (the predecessor to facts available) because it was based on another company's uncharacteristic business expense that resulted in an unusually high margin. *See Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996). Similarly, the Department does not apply a margin that has been discredited. See *D&L Supply Co.* v. *United States*, 113 F. 3d 1220, 1223–4 (Fed. Cir. 1997) (finding that the Department will not use a margin that has been judicially invalidated).

With regard to the relevance of the rate used, the Department notes that the rate used is the rate currently applicable to the PRC-wide entity and there is no information that indicates this rate is no longer relevant to the PRC-wide entity. In addition, we compared the margin calculations of Haimeng, Winhere, and Meita in this administrative review with the PRC-wide entity margin from the LTFV investigation and used in previous administrative reviews of this case. The Department found that the margin of 43.32 percent was within the range of the highest margins calculated for the respondents on the record of this administrative review, further support that this rate continues to be relevant for use in this administrative review.[34]

As we have determined, to the extent practicable, that the margin selected is both reliable and relevant, we determine that it has probative value. As a result, the Department determines that the margin is corroborated within the meaning of section 776(c) of the Act for the purposes of this administrative review and may reasonably be applied to the PRC-wide entity as AFA. Accordingly, we determine that the highest rate from any segment of this administrative proceeding, 43.32 percent, meets the corroboration criterion established in section 776(c) of the Act that secondary information has probative value.

Because these are the preliminary results of review, the Department will consider all margins on the record at the time of the final results of review for the purpose of determining the most appropriate final margin for the PRC-wide entity. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 1139, 1141 (January 7, 2000).

**Fair Value Comparisons**

To determine whether sales of the subject merchandise by Haimeng, Meita, Winhere, and Golrich to the United States were made at prices below NV, we compared each company's export prices (''EPs'') to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice below, pursuant to section 773 of the Act.

**Export Price**

For each respondent, we used EP methodology, in accordance with section 772(a) of the Act, for sales in which the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States and for sales in which constructed export price was not otherwise indicated. We made the following company-specific adjustments:

*A. Haimeng, Meita, Winhere, and Golrich*

We calculated EP based on the delivery method reported to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and foreign brokerage and handling charges in the PRC,b and international freight, and air freight, pursuant to section 772(c)(2)(A) of the Act.[35] Where foreign inland freight, foreign brokerage and handling fees, or marine insurance were provided by PRC service providers or paid for in renminbi, we based those charges on surrogate rates from India. For those expenses that were provided by a market-economy provider and paid for in market-economy currency, we used the reported expense. *See* ''Factor Valuation'' section below for further discussion of surrogate rates.

In determining the most appropriate surrogate values to use in a given case, the Department's stated practice is to use review period-wide price averages, prices specific to the input in question, prices that are net of taxes and import duties, prices that are contemporaneous with the period of review, and publicly available data. *See e.g., Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 38366 (July 6, 2006), and accompanying *Issues and Decision Memorandum* at Comment 1. The data we used for brokerage and handling expenses fulfill all of the foregoing criteria except that they are not specific to the subject merchandise. There is no information of that type on the record of these reviews. Therefore, consistent with the most recently completed administrative review,[36] we used ranged brokerage and handling data from the February 28, 2005, public version of the Section C response of Essar Steel Limited in *Certain Hot-Rolled Carbon Steel Flat Products From India: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 2018 (January 12, 2006), which covers the period December 1, 2003, through November 30, 2004. We also used ranged brokerage and handling data from Agro Dutch Industries Ltd., taken from *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 71 FR 10646 (March 2, 2006), for which the POR was

[34] *See* Memorandum to the File from Ann Fornaro, International Trade Compliance Analyst, through Wendy J. Frankel, Director, Office 8, AD/CVD Operations, entitled ''2005–2006 Antidumping Duty Administrative Review and New Shipper Review of Brake Rotors from the People's Republic of China (''PRC''): Corroboration of the PRC-Wide Adverse Facts-Available Rate.''

[35] *See* Golrich Calculation Memo; Memorandum to the File from Jennifer Moats, International Trade Compliance Analyst, through Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, entitled, ''Analysis for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China: Longkou Haimeng Machinery Co., Ltd.,'' dated February 9, 2007 (''Haimeng Calculation Memo''); Memorandum to the file through Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, from Frances Veith, International Trade Compliance Analyst, Subject: Analysis for the Preliminary Results of the 2005–2006 Antidumping Duty Administrative Review of Brake Rotors from the People's Republic of China: Yantai Winhere Auto-Part Manufacturing Co., Ltd., dated February 9, 2007 (''Winhere Calculation Memo''); and Memorandum to the file from Frances Veith, International Trade Compliance Analyst, through Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, entitled, ''Analysis for the Preliminary Results of the 2005–2006 Antidumping Duty Administrative Review of Brake Rotors from the People's Republic of China: Qingdao Meita Automotive Industry Co., Ltd.,'' dated February 9, 2007 (''Meita Calculation Memo'').

[36] *See Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the 2004/2005 Administrative Review and Preliminary Notice of Intent To Rescind the 2004/2005 New Shipper Review,* 71 FR 26736, 26742 (May 8, 2006).

February 1, 2004, through January 31, 2005. Because these values were not concurrent with the POR of these administrative and new shipper reviews, we adjusted these rates for inflation using the Wholesale Price Indices (''WPI'') for India as published in the International Monetary Fund's *International Financial Statistics*, available at *http://ifs.apdi.net/imf*, and then calculated a simple average of the two companies' brokerage expense data.

Two respondents (*i.e.*, Haimeng and Winhere) reported that their U.S. customers provided ball bearing cups and lug bolts free-of-charge which were incorporated into certain brake rotor models exported to the United States during the POR. Both companies reported that their U.S. customers purchased ball bearing cups and lug bolts from PRC producers that were delivered to Haimeng and Winhere in specific quantities free-of-charge, and that the components were then incorporated into models shipped to U.S. customers during the POR.

Section 773(c)(3) of the Act states that ''factors of production utilized in producing merchandise include, but are not limited to the quantities of raw materials employed.'' *See, e.g., Brake Rotors 8th Final Results* and the accompanying *Issues and Decisions Memorandum* at Comment 9. *See also Certain Preserved Mushrooms From the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review*, 70 FR 54361 (September 14, 2005), and the accompanying *Issues and Decisions Memorandum* at Comment 13. Therefore, to reflect the U.S. customers' expenditures for these items, we adjusted the U.S. price of applicable sales of these models by adding the Indian surrogate value for each component (*i.e.*, the ball bearing cups and lug bolts) used to the U.S. price of such brake rotors sold to the United States during the POR. For further information, *see* Winhere Calculation Memo and Haimeng Calculation Memo.

At Haimeng's verification, we found there were several unreported price adjustments to certain U.S. sale transactions. We adjusted the appropriate U.S. sales in Haimeng's margin calculations to account for the price deductions granted by Haimeng to its customer. For details of this adjustment, *see* Haimeng Verification Report and Haimeng Calculation Memo.

At verification, we also found instances where Haimeng sent additional brake rotors at zero value in response to claims by the U.S. customer that it had not received the requested merchandise with the original shipment. Additionally, we found that Haimeng erroneously shipped certain brake rotors not ordered by its customer. Haimeng shipped the correct merchandise, but allowed the customer to keep the shipments sent in error at no charge. Because Haimeng provided documentation from its customer at verification demonstrating that such claims were made by its customer, and the *ad valorem* effect on export price is less than one percent, and thus insignificant pursuant to section 777A(a)(2) of the Act and 19 CFR 351.413, we did not correct for these adjustments in Haimeng's margin calculation. *See, e.g., Brake Rotors from the People's Republic of China: Final Results of the Twelfth New Shipper Review*, 71 FR 4112 (January 25, 2006), and the accompanying *Issues and Decision Memorandum* at Comment 3.

**Zero-Priced Transactions**

During the course of this review, Winhere reported a number of ''sample'' transactions to its U.S. customer that it claimed to be zero-priced transactions. *See* Winhere's October 3, 2006, sections A, C, D, and Reconciliations submission at Exhibit C–2 and Winhere's January 8, 2007, supplemental questionnaire response at Exhibits 8 and 9 (''Winhere Supplemental Response''). On December 12, 2006, we issued a supplemental questionnaire requesting that Winhere provide documentation, (*e.g.*, commercial invoice, packing list, bill of lading, and PRC customs form) to support Winhere's claim that the sample transactions were in fact samples provided for no remuneration to its U.S. customer. On January 8, 2007, Winhere provided a summary of the total quantity and value of the products shipped ''for no remuneration'' and the total amount ''purchased'' by its customer during an approximate three-year period (*i.e.*, January 2003 through March 2006). Winhere also provided a freight carrier shipment bill showing a summary (not itemized) of the cost to ship some of the claimed samples of subject merchandise and non-subject merchandise. Winhere did not, however, provide any of the other documentation requested in the Department's December 12, 2006, supplemental questionnaire nor did it explain why it did not provide the documentation requested. On January 16, 2007, we issued a second supplemental questionnaire to Winhere requesting again that it provide the documentation noted above and the U.S. Customs 7501 entry forms and *pro forma* invoices to demonstrate that the subject merchandise it provided to its U.S. customers were transactions for no remuneration. On January 23, 2007, Winhere provided payment documentation for the freight information reported in its January 8, 2007, supplemental response and limited warehouse withdrawal documentation. Winhere did not provide any of the documentation requested by the Department noted above and stated that it does not generate these types of documents when shipping samples to its U.S. customers, but it also did not provide any other information in the alternative to support its claims.

The Courts have consistently ruled that the burden rests with a respondent to demonstrate that it received no consideration in return for its provision of purported samples. *See, e.g., NTN Bearing Corp. of America* v. *United States*, 248 F. Supp. 2d 1256, 1286 (CIT 2003) and *Zenith Electronics Corp.* v. *United States*, 988 F. 2d 1573, 1583 (Fed. Cir. 1993) (explaining that the burden of evidentiary production belongs ''to the party in possession of the necessary information''). *See also, NTN Bearing Corp. of America* v. *United States*, 248 F. Supp. 2d 1256, 1286 (CIT 2003), and *Tianjin Machinery Import & Export Corp.* v. *United States,* 806 F. Supp. 1008, 1015 (CIT 1992) (''The burden of creating an adequate record lies with respondents and not with {the Department}.'') (citation omitted).

Winhere bears the burden of demonstrating that there was no monetary or non-monetary consideration for the transactions in question. Winhere failed to provide any evidence that no monetary or non-monetary consideration was given for its claimed sample sales. Therefore, based on Winhere's failure to show that no consideration was given for these sales in question, we have not excluded these transactions from the margin calculation for Winhere. Instead, we have treated the transactions at issue as zero-priced sales and, therefore, included them in Winhere's margin calculation for the preliminary results.

Winhere reported its FOPs for materials, labor, and energy based on an allocation formula determined by the weight of the final product. Therefore, to value the claimed sample products for which no FOPs were provided by Winhere, we used the same allocation formula reported by Winhere to assign FOPs for materials, labor, and energy based on the weights of those products. To value packing materials for these products, we applied Winhere's reported packing FOP information submitted for other control numbers of the same type of brake rotor (*i.e.*, solid or vented) with the same weight, where

available, or closest in weight. *See* Winhere's Calculation Memo at Exhibit 4, for more information on the facts-available methodology and values applied.

**Normal Value**

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department will base NV on the FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under its normal methodologies.

For purposes of calculating NV, we valued the PRC FOPs in accordance with section 773(c)(1) of the Act. FOPs include, but are not limited to, hours of labor required, quantities of raw materials employed, amounts of energy and other utilities consumed, and representative capital costs, including depreciation. *See* section 773(c)(3) of the Act. In examining surrogate values, we selected, where possible, the publicly available value which was an average non-export value, representative of a range of prices within the POR or most contemporaneous with the POR, product-specific, and tax-exclusive. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China,* 69 FR 75294, 75300 (December 16, 2004) (''*Chlorinated Isocyanurates*'') (unchanged in final determination). We used the usage rates reported by the respondents for materials, energy, labor, and packing. For a detailed explanation of the methodology used to calculate surrogate values, *see* Factor Valuation Memo.

Regarding the components supplied free of charge to Haimeng and Winhere noted above, section 773(c)(3) of the Act states that the ''factors of production include but are not limited to the quantities of raw materials employed.'' Therefore, consistent with the corresponding adjustment to U.S. price discussed above, we valued the ball bearing cups and lug bolts usage amounts reported by these two respondents for specific brake rotor models by using an Indian surrogate value for each input. *See* Haimeng Calculation Memorandum and Winhere Calculation Memorandum. *See also* Factor Valuation Memo.

**Factor Valuations**

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by the respondents for the POR. We relied on the factor-specific data submitted by the respondents for the above-mentioned inputs in their questionnaire and supplemental questionnaire responses, where applicable, for purposes of selecting surrogate values.

To calculate NV, we multiplied the reported per-unit factor quantities by publicly available Indian surrogate values (except where noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. *See, e.g., Folding Metal Tables and Chairs from the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 71 FR 71509 (December 11, 2006), and accompanying *Issues and Decision Memorandum* at Comment 9. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate. This adjustment is in accordance with the Federal Circuit's decision in *Sigma Corp.* v. *United States,* 117 F. 3d 1401 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, *see* Factor Valuation Memo.

Except where discussed below, we valued raw material inputs using April 2005, through March 2006 weighted-average unit import values derived from the Monthly Statistics of the Foreign Trade of India (MSFTI) as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India and used in the WTA, available at <*http://www.gtis.com/wta.htm*>. The Indian import statistics we obtained from the WTA were reported in rupees. Indian surrogate values denominated in foreign currencies were converted to U.S. dollars using the applicable daily exchange rate for India for the POR. The average exchange rate was based on exchange rate data from the Department's Web site. *See* <*http://www.ia.ita.doc.gov/exchange/index.html*>. Where we could not obtain publicly available information contemporaneous with the POR with which to value factors, we adjusted the surrogate values for inflation using the WPI for India. *See Factor Valuation Memo.*

Furthermore, with regard to the Indian import-based surrogate values, we have disregarded prices from NME countries and those that we have reason to believe or suspect may be subsidized (*i.e.*, Indonesia, South Korea, and Thailand). We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, there is reason to believe or suspect all exports to all markets from these countries may be subsidized. *See Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers From The People's Republic of China*, 61 FR 66255 (December 17, 1996), and accompanying *Issues and Decision Memorandum* at Comment 1.

Finally, we excluded imports that were labeled as originating from an ''unspecified'' country from the average value, because we could not be certain that they were not from either an NME or a country with general export subsidies.

To value lubricating oil, we used January through December 2005 WTA weighted-average import values from the Philippines because no data was available for this input from WTA Indian import data. We adjusted the WTA weighted-average value for this input for inflation.

We valued electricity using the 2000 average price per kilowatt hour for ''Electricity for Industry'' as reported in the International Energy Agency's (''IEA's'') publication, *Energy Prices and Taxes, Fourth Quarter, 2003.* Because the value was not contemporaneous with the POR, we adjusted the average cost of electricity for inflation.

Section 351.408(c)(3) of the Department's regulations requires the use of a regression-based wage rate. Therefore, to value the labor input, the Department used the regression-based wage rate for the PRC published by Import Administration on our Web site. The source of the wage rate data is the *Yearbook of Labour Statistics 2004,* published by the International Labour Office (''ILO''), (Geneva: 2004), Chapter 5B: Wages in Manufacturing. *See* the Expected Wages of Selected NME Countries (revised January 2007) available at: *http://ia.ita.doc.gov/wages*. Because the regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we applied the same wage rate to all skill levels and types of labor reported by each respondent.

To value corrugated plastic bags, plastic wrap, cartons, adhesive tape,

particle board, plywood, pallet wood, nails, steel strap, plastic strap and buckles, we used April 2005 through March 2006 weighted-average import values from WTA Indian import data.

At verification, Golrich provided minor corrections for the reported weights of 11 of the 18 boxes used to pack the subject merchandise it sold during the POR. For each of these 11 boxes, we were able to verify the revised weights presented as minor corrections by Golrich. However, we could not verify the reported weights of the remaining seven boxes used because Golrich could not present these boxes to the Department at verification. We were, therefore, unable to verify the reported unit weights of these seven boxes. To value these seven boxes, we adjusted the reported weight amounts of those boxes by the company's largest percentage increase presented at verification for the other boxes. For further information on the valuation of Golrich's boxes, *see* Golrich Verification Report and Golrich Calculation Memo.

The Department valued truck freight using Indian freight rates published by Indian Freight Exchange available at *www.infreight.com*. This source provided daily rates from six major points of origins to six destinations in India for the period April 2005, through October 2005. Since these values are contemporaneous with the POR, we did not need to make an adjustment for inflation. We averaged the monthly rates for each rate observation to obtain a surrogate value.

Because there are no known Indian air freight providers that ship merchandise from the PRC to the United States, we valued air freight, where applicable, using the rates published on the UPS Web site: *http://www.ups.com* and adjusted these rates, as appropriate, for inflation.

Two respondents (*i.e.*, Winhere and Meita) reported transportation expenses from their casting facilities to their finishing workshops. To value PRC freight for the distance between the respondents' casting facility and their finishing workshop, we used the inland freight surrogate value calculated for inputs shipped by truck in which we used Indian freight rates, as discussed above. Meita did not report transportation distances from its casting facility to its finishing workshop. Therefore, for purposes of these preliminary results, as facts available, we are using the surrogate value for inland freight to value this foreign inland transportation expense for Meita using distance information noted in the verification report issued by the Department in the eighth review of brake rotors from the PRC.[37] *See* Winhere Calculation Memorandum and Meita Calculation Memorandum.

Petitioners submitted financial information for two Indian producers of identical and comparable merchandise: Bosch Chassis Systems India Ltd. (''Bosch'') for the year ending March 31, 2006, and Rico Auto Industries Limited (''Rico'') for the year ending March 31, 2005.[38] Because both Bosch's and Rico's financial statements were missing a significant number of pages, and Rico's financial statements were not contemporaneous with the POR, the Department placed on the record of these reviews the public information from the financial statements of Bosch and Rico for the year ending March 31, 2006, to be considered for valuing FOPs.[39]

We preliminarily determine that both Bosch's and Rico's financial statements are the best available information with which to calculate financial ratios because they appear to be complete, are publicly available, and are contemporaneous with the POR. *See Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China,* 71 FR 29303 (May 22, 2006), and the accompanying *Issues and Decision Memorandum* at Comment 1. Where appropriate, we did not include in the surrogate overhead and selling, general and administrative expenses (''SG&A'') calculations the excise duty amount listed in the financial reports. From these financial statements we were able to determine factory overhead as a percentage of the total raw materials, labor, and energy (''MLE'') costs; SG&A as a percentage of MLE plus overhead (*i.e.*, cost of manufacture); and the profit rate as a percentage of the cost of manufacture plus SG&A. *See* Factors Valuation Memorandum for a full discussion of the calculation of these ratios.

To value coking coal, coke, and firewood we applied surrogate values using Indian import prices by HTS classification for the POR reported in the MSFTI, and available from WTA. *See* Factors Valuation Memo for a full discussion of the calculation of these ratios.

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

**Preliminary Results of Reviews**

We preliminarily determine that the following margins exist for the period April 1, 2005, through March 31, 2006:

BRAKE ROTORS FROM THE PRC

| | Weighted-average percent margin |
|---|---|
| **Individually Reviewed Exporters 2005–2006 Administrative Review** | |
| Longkou Haimeng Machinery Co., Ltd. | 3.43 |
| Yantai Winhere Auto-Part Manufacturing Co., Ltd. | *0.02 |
| Qingdao Meita Automotive Industry Co., Ltd. | 0.00 |
| **Separate-Rate Applicant Exporters 2005–2006 Administrative Review** | |
| China National Industrial Machinery Import & Export Corporation | 3.43 |
| Laizhou Auto Brake Equipment Co., Ltd. | 3.43 |
| Qingdao Gren (Group) Co. | 3.43 |

[37] *See* Memorandum to the File from Frances Veith, International Trade Compliance Analyst, through Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, entitled, ''Qingdao Meita Automotive Industry Co., Ltd.'s 2004–2005 Verification Report: 2005–2006 Antidumping Duty Administrative Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China,'' dated January 25, 2007.

[38] *See* Petitioners' submission dated September 14, 2006.

[39] *See* Memorandum to the File from Frances Veith, International Trade Compliance Analyst, through Blanche Ziv, Program Manager, AD/CVD Operations, Office 8, entitled, ''Brake Rotors from the People's Republic of China,'' dated December 6, 2006.

BRAKE ROTORS FROM THE PRC—Continued

| | Weighted-average percent margin |
|---|---|
| Zibo Luzhou Automobile Parts Co., Ltd. | 3.43 |
| Laizhou Hongda Auto Replacement Parts Co., Ltd. | 3.43 |
| Longkou TLC Machinery Co., Ltd. | 3.43 |
| Zibo Golden Harvest Machinery Limited Company | 3.43 |
| Laizhou City Luqi Machinery Co., Ltd. | 3.43 |
| Shenyang Yinghao Machinery Co. | 3.43 |
| Longkou Jinzheng Machinery Co., Ltd. | 3.43 |
| Shanxi Zhongding Auto Parts Co., Ltd. | 3.43 |
| Shandong Huanri Group Co., Ltd. | 3.43 |
| **2005–2006 New Shipper Review** | |
| Qingdao Golrich Autoparts Co., Ltd. | 0.78 |
| **PRC-Wide Rate** | |
| PRC-Wide Rate ** | 43.32 |

* *De Minimus.*
** This includes Rotec and Hengtai.

**Disclosure**

We will disclose the calculations used in our analysis to parties to these proceedings within five days of the date of publication of this notice. *See* 19 CFR 351.224(b).

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in these proceedings are requested to submit with each argument (1) a statement of the issue, and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in case and rebuttal briefs. The Department will issue the final results of these reviews, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

**Assessment Rates**

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of the final results of these new shipper and administrative reviews. In accordance with 19 CFR 351.212(b)(1), we have calculated an exporter/importer- or customer-specific assessment rate or value for merchandise subject to these reviews. For these preliminary results, we divided the total dumping margins for the reviewed sales by the total entered quantity of those reviewed sales for each applicable importer. In these reviews, if these preliminary results are adopted in our final results of review, we will direct CBP to assess the resulting rate against the entered customs value or per-unit assessment, as appropriate, for the subject merchandise on each importer's/customer's entries during the POR.

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication of the final results of the new shipper review for all shipments of subject merchandise from Golrich entered or withdrawn from warehouse, for consumption on or after publication date: (1) For subject merchandise manufactured and exported by Golrich, the cash deposit rate will be 2.15 percent; and (2) for subject merchandise exported by Golrich but not manufactured by Golrich, the cash deposit rate will be the PRC-wide rate.

The following cash deposit requirements will be effective upon publication of the final results of the administrative review for all shipments of brake rotors from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for CNIM, LABEC, GREN, Winhere, Haimeng, ZLAP, Hongda, Meita, TLC, ZGOLD, Luqi Yinghao, Longkou Jinzheng, Zhongding and Huanri will be the rates determined in the final results of review (except that if a rate is *de minimis*, *i.e.*, less than 0.50 percent, no cash deposit will be required); (2) the cash deposit rate for previously investigated or reviewed PRC and non-PRC exporters who received a separate rate in a prior segment of the proceeding (which were not reviewed in this segment of the proceeding) will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate (including Rotec and Hengtai) will be the PRC-wide rate of 43.32 percent; and (4) the cash deposit rate for all non-PRC exporters of subject merchandise which have not received their own rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

**Notification to Importers**

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate

regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this 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 double antidumping duties.

These administrative and new shipper reviews and notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.213 and 351.214.

Dated: February 9, 2007.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 07–713 Filed 2–14–07; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**(A–570–886)**

### Polyethylene Retail Carrier Bags from the People's Republic of China: Notice of Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** February 15, 2007.

**FOR FURTHER INFORMATION CONTACT:** Laurel LaCivita or Matthew Quigley, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4243 or (202) 482–4551, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On September 28, 2005, the Department of Commerce (''the Department'') published in the **Federal Register** a notice of initiation of the antidumping duty administrative review of Polyethylene Retail Carrier Bags (''PRCBs'') from the People's Republic of China (''PRC'') for the period January 26, 2004, through July 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005). On September 13, 2006, the Department published the preliminary results. *See Polyethylene Retail Carrier Bags from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 54021 (September 13, 2006) (''*Preliminary Results*''). On January 10, 2007, the Department extended the time period for completion of the final results of this review. *See Polyethylene Retail Carrier Bags from the People's Republic of China: Notice of Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review*, 72 FR 1216 (January 10, 2007). The final results are currently due by February 12, 2007.

#### Extension of Time Limit for Final Results of Review

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), the Department shall make a final determination in an administrative review of an antidumping duty order within 120 days after the date on which the preliminary determination is published. The Act further provides, however, that the Department may extend that 120-day period to 180 days if it determines it is not practicable to complete the review within the foregoing time period.

The Department finds that it is not practicable to complete the final results of the administrative review of PRCBs from the PRC by February 12, 2007, due to the extra time necessary to give parties an opportunity to comment on the Department's revised calculations to expected non–market economy wages. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for completion of the final results of this review to 165 days after publication of the *Preliminary Results*. However, because February 25, 2007, falls on a Sunday, the final results will be due on February 26, 2007, the next business day.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: February 7, 2007.

**Stephen J. Claeys,**

*Deputy Assistant Secretaryfor Import Administration.*

[FR Doc. E7–2684 Filed 2–14–07; 8:45 am]

BILLING CODE 3510–DS–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 010307C]**

### Atlantic Highly Migratory Species (HMS); Pelagic and Bottom Longline Fisheries

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

**ACTION:** Notice of availability.

**SUMMARY:** NMFS announces the availability of a revised list of equipment models that NMFS has approved as meeting the minimum design specifications for the careful release of sea turtles caught in hook and line fisheries. The revised list is available at *http://www.nmfs.noaa.gov/sfa/hms/Protected%20Resources/Required__Gear.pdf*. The list is not a list of required gears, but is a list of NMFS approved models of equipment that may be used as options to meet the requirements for gear that must be carried on board vessels participating in the Atlantic pelagic and bottom longline fisheries. Equipment may also be fabricated and used by individuals according to the minimum design specifications. The benefit of using these gears is to maximize safe and efficient gear removal from incidentally captured sea turtles thereby minimizing the potential for serious injury or mortality.

**ADDRESSES:** For copies of the list of NMFS approved equipment models for the careful release of sea turtles caught in hook and line fisheries, the Final Supplemental Environmental Impact Statement (FSEIS) (issued by NMFS in June 2004) that provides for the approval of new or additional equipment for careful release of sea turtles caught in hook and line fisheries and the Final Environmental Impact Statement that the FSEIS supplements (issued by NMFS in April 1999), contact Margo Schulze-Haugen, Chief, Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910 or at (301) 713–1917 (fax). These documents are also available at *http://www.nmfs.noaa.gov/sfa/hms/*.

**FOR FURTHER INFORMATION CONTACT:** Randy Blankinship, Greg Fairclough, Richard A. Pearson or Russell Dunn at 727–570–5447 or 727–570–5656 (fax).

**SUPPLEMENTARY INFORMATION:** The Atlantic tuna and swordfish fisheries are managed under the authority of the Magnuson-Stevens Act and the Atlantic Tunas Convention Act (ATCA). Atlantic sharks are managed under the authority of the Magnuson-Stevens Act. The Consolidated Atlantic Highly Migratory Species Fishery Management Plan, finalized in 2006, is implemented by regulations at 50 CFR part 635. The Atlantic pelagic and bottom longline fisheries are also subject to the requirements of the Endangered Species

Act (ESA) and the Marine Mammal Protection Act (MMPA).

NMFS announces the availability of a revised list of equipment models that NMFS has approved as meeting the minimum design specifications for the careful release of sea turtles caught in hook and line fisheries. The revised list is available at *http://www.nmfs.noaa.gov/sfa/hms/Protected%20Resources/Required_Gear.pdf*. To see the previous list of NMFS approved models for the careful release of sea turtles caught in hook and line fisheries, see 69 FR 40734, July 6, 2004. Revision of the list is necessary due to NMFS approval of the following additional sea turtle bycatch mitigation gear for use in the pelagic and bottom longline fisheries for Atlantic HMS: (1) Robey dehooker (for external hooks only), (2) NOAA/Bergmann dehooker (with modification) and (3) notch modification of the previously approved Aquatic Release Conservation (ARC) dehooker pigtail curl. Other sea turtle bycatch mitigation gears previously approved remain approved for use in the fishery.

The list is not a list of required gears, but is a list of NMFS approved models of equipment that may be used as options to meet the requirements for gear that must be carried on board vessels participating in the Atlantic pelagic and bottom longline fisheries (50 CFR 635.21(c)(5)(i) and (d)(3)(i)). Equipment may also be fabricated and used by individuals according to the minimum design specifications (50 CFR 635.21(c)(5)(i)). The benefit of using these gears is to maximize safe and efficient gear removal from incidentally captured sea turtles, thereby minimizing the potential for serious injury or mortality.

**Authority:** 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 1801 *et seq.*

Dated: February 8, 2007.

**Alan D. Risenhoover,**

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

[FR Doc. E7–2686 Filed 2–14–07; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### NOAA's Oceans and Human Health Initiative Advisory Panel Meeting

**AGENCY:** National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Oceans and Human Health Act of 2004 (Pub. L. 108 447) created a national, interagency research program to improve understanding of the role of the oceans in human health. Section 903(a) of this Act authorizes the Secretary of Commerce to establish an Oceans and Human Health Initiative (OHHI) to coordinate and implement research and activities of the National Oceanic and Atmospheric Administration (NOAA) related to the role of the oceans, the coasts, and the Great Lakes in human health. Section 903(b) of the OHH Act further authorizes the Secretary of Commerce to establish an oceans and human health advisory panel to assist in the development and implementation of the NOAA OHHI. This advisory panel is to provide for balanced representation of individuals with multi-disciplinary expertise in the marine and biomedical sciences and is not subject to the Federal Advisory Committee Act (5 U.S.C. App.).

In 2005, authorities provided to the Secretary of Commerce under the OHH Act were delegated to the Under Secretary of Commerce for Oceans and Atmosphere and then redesignated to the Assistant Administrator for Ocean Services and Coastal Zone Management. Initial appointments to the advisory panel were completed by the NOAA Assistant Administrator for Ocean Services and Coastal Zone Management in May 2006.

*Date and Time:* The meeting will be held Thursday March 8, 2007 from 8:30 a.m.–2:30 p.m. and Friday March 9, 2007 from 8:30 a.m.–2:30 p.m.

*Location:* The meeting will be held at the Hotel Deca, Seattle Washington, 4507 Brooklyn Ave, NE., Seattle, Washington (WA) 98105; (Tel) 206–634–2000. Meeting rooms are the Chancellor and College Rooms and subject to change.

**FOR FURTHER INFORMATION CONTACT:** Dr. Paul Sandifer, National Ocean Service Senior Scientist for Coastal Ecology, c/o Hollings Marine Laboratory, 331 Fort Johnson Road, Charleston, South Carolina 29412; (Tel) 843–762–8814 (E-mail: *paul.sandifer@noaa.gov*) or visit the OHHI Web site: *http://www.eol.ucar.edu/project/ohhi/.*

*Matters to be Considered:* (1) Approval of Advisory Panel Charter; (2) review of revised vision, mission and goals for the OHHI; (3) review of OHHI strategic objectives; (4) review of on-going research and outreach and education activities, products and services; (5) review of Congressionally mandated interagency and agency OHH reports.

Dated: February 8, 2007.

**Marie Colton,**

*Technical Director, NOAA, National Ocean Service.*

[FR Doc. 07–699 Filed 2–14–07; 8:45 am]

BILLING CODE 3510–IE–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### National Centers for Coastal Ocean Science Draft Human Dimensions Strategic Plan (FY2008–FY2013)

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of availability and solicitation of public comments on the National Centers for Coastal Ocean Science Draft Human Dimensions Strategic Plan (FY2008–FY2013).

**SUMMARY:** NOAA publishes this notice to announce availability of the National Centers for Coastal Ocean Science Draft Human Dimensions Strategic Plan (FY2008–FY2013) for public comment.

**DATES:** Comments must be received before 11:59 p.m. EDT, March 19, 2007.

**ADDRESSES:** Electronic submission of comments via e-mail to *nccos.hd@noaa.gov* is preferred. Comments may also be sent by fax to (301) 713–4353 or mail to NOAA National Ocean Service, National Centers for Coastal Ocean Science, c/o Marybeth Bauer, PhD, 1315 East-West Highway, NOS HQTR Route N/SCI, Silver Spring, MD 20910. E-mail and fax comments should state ''Comments'' in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Marybeth Bauer, Ph.D., by e-mail at *nccos.hd@noaa.gov* (preferred) or mail at NOAA National Ocean Service, National Centers for Coastal Ocean Science, 1315 East-West Highway, NOS HQTR Route N/SCI, Silver Spring, MD 20910 or phone at (301) 713–3020. E-mail requests for information should state ''Request for Information'' in the subject line. An electronic copy of the National Centers for Coastal Ocean Science Draft Human Dimensions Strategic Plan (FY2008–FY2013) is available at: *http://coastalscience.noaa.gov/human/strategy/NCCOSDraftHDStrategicPlan.pdf.*

**SUPPLEMENTARY INFORMATION:** NOAA's National Centers for Coastal Ocean Science (NCCOS) provides coastal

resource managers, other decision makers, and stakeholders with the ecosystem information and tools needed to balance society's environmental, social, and economic goals in mitigating and adapting to stressors such as climate change, extreme natural events, pollution, invasive species, and resource use.

Humans are integral to ecosystems, and the human dimensions of ecosystems are an integral focus of the science NCCOS conducts and conveys. NOAA's Strategic Plan (FY2006–FY2011) (available at: *http://www.ppi.noaa.gov/pdfs/STRATEGIC%20PLAN/Strategic_Plan_2006_FINAL_04282005.pdf)* defines an ecosystem as a geographically specified system of organisms, including humans, the environment, and the processes that control its dynamics. An environment encompasses the biological, chemical, physical, and social conditions that surround organisms. The human dimensions of ecosystems can be expressed in terms of three points of interaction between environmental and human systems: human causes, consequences, and responses to environmental change. Encompassing a broad array of social science, humanities, and other disciplines, human dimensions research aims to understand these human-environmental interactions and facilitate use of this understanding to assist decisions affecting environmental processes and their societal outcomes.

NCCOS developed a Draft Human Dimensions Strategic Plan (FY2008–2013) to define and implement human dimensions research critical to support an ecosystem approach to the management of coastal and ocean resources. The plan expands a Societal Stressors Objective in NCCOS's Strategic Plan (*http://coastalscience.noaa.gov/documents/strategicplan.pdf*). The final Human Dimensions Strategic Plan will guide development of the NCCOS ecosystem science agenda, workforce, organization, partnerships, and other capacities, including research conducted through extramural partners, grants, and contracts. Planning, programming, budgeting, and execution of NCCOS activities will reflect the objectives of the final plan through FY 2013.

The draft plan puts forth the following human dimensions research goals and objectives. First, to provide human dimensions information essential to support an ecosystem approach to coastal and ocean resource management (Goal 1), the plan recommends identifying and characterizing stakeholders and their values (Objective 1.1), monitoring human dimensions (Objective 1.2), assessing and monitoring human causes of ecosystem stress (Objective 1.3), documenting traditional and local ecological knowledge (Objective 1.4), addressing value and ethical dimensions (Objective 1.5), and developing institutional strategies (Objective 1.6). Second, to provide integrated ecosystem information essential to support an ecosystem approach to coastal and ocean resource management, the plan recommends developing and operationalizing integrative information products and tools (Objective 2.1) and defining and implementing integrated ecosystem assessments (Objective 2.2). Third, to promote resilient ecosystems (Goal 3), the plan recommends assessing the cumulative impacts of hazards on coastal communities (Objective 3.1), assessing risk and vulnerability (Objective 3.2), developing risk communication strategies (Objective 3.3), and evaluating forecasting and other capabilities (Objective 3.4). Finally, to provide critical support (Goal 4), the plan recommends building essential organizational capacities (Objective 4.1) and developing communications, outreach, and educational strategies (Objective 4.2).

The purpose of this notice is to solicit comments on the Draft Human Dimensions Strategic Plan (FY2008–2013) to ensure the value of the final document for coastal and ocean resource science and governance. NCCOS encourages Federal and non-Federal Government partners, resource managers, other decision makers, stakeholders, and other interested parties to submit comments. We especially encourage comments related to the value of the plan to support an ecosystem approach to the management of coastal and ocean resources, and its collaborative implementation.

To facilitate efficient and thorough consideration of all submissions, please format your comments as follows: (1) Background information on yourself, including name, title, organizational affiliation, and contact information including email address; (2) general comments; and (3) specific comments with references to line numbers. Please follow all substantive, non-editorial comments with well-developed suggestions for revision. Please including identifying information at the top of all pages. The Draft NCCOS Human Dimensions Strategic Plan (FY2008–2013) is being issued for comment only and is not intended for interim use.

Dated: February 8, 2007.

**Gary C. Matlock,**

*Director, National Centers for Coastal Ocean Science.*

[FR Doc. 07–690 Filed 2–14–07; 8:45 am]

BILLING CODE 3510–JE–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D.020907B]**

### Marine Mammals; File No. 984–1814–01

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

**ACTION:** Notice; receipt of application for amendment.

**SUMMARY:** Notice is hereby given that Dr. Terrie Williams, Department of Ecology and Evolutionary Biology, Center for Ocean Health - Long Marine Laboratory, University of California, 100 Shaffer Road, Santa Cruz, CA 95060, has requested an amendment to scientific research Permit No. 984–1814.

**DATES:** Written, telefaxed, or e-mail comments must be received on or before March 19, 2007.

**ADDRESSES:** The amendment request 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 request should be submitted 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 amendment 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. 984–1814–01.

**FOR FURTHER INFORMATION CONTACT:** Kate Swails or Tammy Adams, (301)713–2289.

**SUPPLEMENTARY INFORMATION:** The subject amendment to Permit No. 984–1814, issued on June 19, 2006 (71 FR 37060), is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 984–1814 authorizes the permit holder to capture up to 20 adult Weddell seals (*Leptonychotes weddellii*) and disturb up to 30 adult and 10 juvenile seals annuallyin McMurdo Sound, Antarctica. The animals have a data logger/video system attached, muscle biopsies and blood samples collected, and blubber thickness measured. The permit also authorizes up to 3 research-related mortalities per year. The permit holder requests an amendment to change the field season for this project from five August to December field seasons to three back to back field seasons over the course of two research years. This would allow researchers to investigate different light phases. Researchers would attach data logger/video systems to 24 adult seals and another 24 seals would have time-depth recorders attached annually. Researchers would measure metabolic rates of all captured seals using open-flow respirometry.

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: February 12, 2007.

**P. Michael Payne,**

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. E7–2688 Filed 2–14–07; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 020907C]**

### Marine Mammals; Scientific Research Permit Applications

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

**ACTION:** Notice; receipt of applications.

**SUMMARY:** Notice is hereby given that: seven applications have been received for permits to conduct research on free-ranging threatened and endangered Steller sea lions (Eumetopias jubatus) in California, Washington, Oregon, and Alaska; five applications have been received for permits to conduct research on free-ranging northern fur seals (Callorhinus ursinus) in Alaska; and one application has been received for an amendment to a permit for activities with captive Steller sea lions in Alaska.

**DATES:** Written, telefaxed, or e-mail comments must be received on or before April 2, 2007.

**ADDRESSES:** The applications and related documents are available for review upon written request or by appointment in the following office(s): See **SUPPLEMENTARY INFORMATION**.

Written comments or requests for a public hearing on these applications 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 the particular request(s) 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 the appropriate File Number(s) in the subject line of the e-mail comment as a document identifier.

**FOR FURTHER INFORMATION CONTACT:** Tammy Adams, Amy Sloan, Kate Swails, or Jaclyn Daly, (301)713–2289.

**SUPPLEMENTARY INFORMATION:** The subject permits for research on Steller sea lions are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226). The subject permits for research on northern fur seals are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

*File No. 782–1889:* The National Marine Mammal Laboratory (NMML), NMFS, Seattle, Washington, requests a 5–year permit to measure Steller sea lion population status, vital rates, foraging behavior, and condition in North Pacific Ocean areas including California, Washington, Oregon, and Alaska. Annually in the western Distinct Population Segment (DPS), up to 73,000 sea lions may be exposed to aerial surveys, 27,000 to rookery-based activities, and 23,000 to incidental activities. Up to 1,280 could be captured annually, with up to 630 having blood, skin and swab samples collected, 580 hot-branded, and up to 180 blubber and lesion biopsied, tooth and vibrissa removed, be ultrasonically imaged, and subject to stomach intubation or enema. Instruments may be attached on up to 280 per year, and 880 per year may receive a non-permanent tag or mark. Annually in the eastern DPS, up to 26,000 may be exposed to aerial surveys, and 5,000 to incidental activities. Up to 12 could be captured per year, and have blood, skin, blubber, fecal, and culture samples collected, a tooth and vibrissa removed, hot-brand, tag or non-permanent mark applied, and have an instrument attached. NMML requests authorization for up to 10 research-related mortalities of Steller sea lions per year (not to exceed 5 per year in the western DPS). Up to 5,000 harbor seals (*Phoca vitulina richardsi*) and 15,000 northern fur seals may be disturbed per year incidental to activities in Alaska. Up to 3,000 California sea lions (*Zalophus californianus*) and 200 harbor seals may be incidentally disturbed per year along the U.S. west coast.

*File No. 358–1888:* The Alaska Department of Fish and Game (ADF&G), Division of Wildlife Conservation, Juneau, Alaska, requests a 5–year permit to continue investigating the various hypotheses for the decline or lack of recovery of Steller sea lions in Alaska. The research covers a variety of activities including incidental disturbance during aerial surveys (up to 20,000 individuals per year in the eastern DPS), disturbance of animals on rookeries and haulouts during brand resighting surveys (up to 25,000 individuals annually in the eastern DPS and up to 5,000 individuals annually in the western DPS), and incidental to scat collection, capture for instrument attachment, physiological research and sample collection (up to15,000 individuals in the eastern DPS and 2,000 in the western DPS per year). Up

to 800 pups would be hot branded per year for long-term demographic and distribution studies. Up to 280 older animals would be captured per year for physiological assessment, with attachment of scientific instruments to investigate foraging ecology and diving behavior on up to 95 per year. ADF&G requests authorization for up to 10 research-related mortalities of Steller sea lions per year (not to exceed 5 per year in the western DPS). Harbor seals, northern fur seals, and California sea lions may be disturbed incidentally during the course of this research due to proximity of isolated individuals to the Steller sea lion study area. Field work will take place during all seasons of the year and throughout the range of Steller sea lions in Alaska (both eastern and western DPS).

*File No. 881–1893:* The Alaska SeaLife Center (ASLC), Seward, Alaska, requests a 5–year permit to characterize the movements, foraging behavior and habitat-associations of northern fur seal pups during their first winter at sea. ASLC proposes to capture and instrument up to 50 northern fur seal pups annually on the Pribilof Islands and Bogoslof Island. Once captured, pups would be physically restrained and sedated for: blood sampling; measurements of body composition (isotope dilution, bioelectric impedance analysis, and ultrasonic imaging of blubber); taking skin, blubber, and muscle biopsies; collecting fecal loops and culture swabs; collecting vibrissae, hair and nails; attachment of flipper tags and marking fur temporarily; and attachment of scientific instruments and placement of internal stomach temperature transmitters. Up to 200 northern fur seals may be captured at sea in the North Pacific and subject to the same list of procedures as above, with the addition that adult females would undergo ultrasonography of the reproductive tract to determine pregnancy. Up to 5,000 fur seals of either sex and any age may be disturbed annually during approaches to the rookery to capture pups, to read flipper tags, and to check previously attached equipment for damage. When possible, fur seals returning to their natal island would be recaptured in subsequent years to remove instruments and to repeat blood collection and measurements of body composition. The ASLC requests authorization for up to four research-related mortalities of fur seals per year.

*File No. 881–1890:* The ASLC requests a 5–year permit to conduct population monitoring and studies on health, nutrition, and foraging behavior of free ranging and temporarily captive Steller sea lions. Research would occur in the Gulf of Alaska and the Aleutian Islands and at the ASLC. The purposes of this research are to provide data on pup and juvenile survival, reproductive rates, diet, epidemiology, endocrinology, immunology, virology, physiology, ontogenetic and annual body condition cycles, foraging behavior, and habitat selection. Individuals may be taken by disturbance associated with capture, remote video studies, scat and carcass collection, and mark resighting (14,000 animals annually); capture, restraint and sampling (610 animals annually); and temporary captivity at ASLC with life history transmitter implantation (30 animals annually). Annually, captured sea lions (640 including those in temporary captivity) will undergo morphometrics measurements, blood and tissue collection, digital imaging, hot-branding, scientific instrument attachment, body condition measurement, whisker sampling, metabolic rate measurement, temporary marking, and x-ray exams. The ASLC requests authorization for up to seven research-related mortalities of Steller sea lions per year. The ASLC also requests authorization to collect an unlimited number of carcasses and hard and soft parts of dead Steller sea lions.

*File No. 434–1892:* The Oregon Department of Fish and Wildlife (ODFW), Corvallis, Oregon, requests a 5–year permit to continue to assess status and monitor trend in Steller sea lion abundance, ecology, and vital rates in the southern extent of the Steller sea lion eastern DPS. Research would occur throughout California, Oregon, and Washington and cover a variety of activities. These activities include incidental disturbance to animals during aerial surveys (500 pups and 1,000 older animals per year), grounds counts and incidental scat collection (2,000 pups and 4,000 older animals per year), as well as captures, sampling, behavioral observations, and monitoring (up to10,000 animals per year). ODFW also proposes to capture and sedate (physically or chemically) up to 200 pups and 10 adults annually for measuring, skin biopsying, flipper tagging or other marking, and hot-branding. In addition to the procedures above, 50 pups and 10 adults annually would have fecal loops and culture swabs collected and 80 pups and 10 adults per year would have scientific instruments attached. ODFW requests authorization for up to 10 research-related mortalities of Steller sea lions per year. Up to 1,000 harbor seals and 5,000 California sea lions may be disturbed annually incidental to this research.

*File No. 1049–1886:* Kate Wynne, University of Alaska Fairbanks, Kodiak, Alaska, requests a 5–year permit to continue studies on the abundance, distribution, and diet of the western DPS of Steller sea lions. Authority is requested to harass animals for aerial surveys (13,000 individuals per year), scat collection (2,000 individuals per year), and land-based (500 individuals per year) and vessel-based (1,000 individuals per year) brand re-sighting activities. Activities would take place throughout the year; however, rookeries would not be approached in June to minimize disturbance during breeding and pupping season. Research would occur in the western and central Gulf of Alaska.

*File No. 1034–1887:* Dr. Markus Horning, Oregon State University, Hatfield Marine Science Center, Newport, Oregon, requests a 5–year permit to study condition and health status of juvenile Steller sea lions in the western DPS; and, using satellite-linked Life History Transmitters (LHX), will estimate survival rates, and obtain long-term data on foraging effort and causes of mortality. Over five years, up to 140 juvenile Steller sea lions will be captured, anesthetized, handled and sampled (morphometrics; 3–D photographic imaging; X-ray imaging; ultrasound; deuterium oxide administration; blood, whisker, hair, claw, blubber, and skin sample collections; mucosal swabs; naturally excreted feces), flipper tagged or hot-branded, and external instruments applied. Of those animals, 100 will additionally have internal LHX transmitters surgically implanted. Researchers would implant up to 50 carcasses with the LHX transmitters to assess the effect of the non-independence of two paired tags on the calculation of correction factors. Dr. Horning requests authorization for up to 15 research-related mortalities over five years, not to exceed five in any one year. Dr. Horning also proposes to install remote imaging systems for 3–D photogrammetry at locations in Alaska and Oregon to census animals and monitor body mass, condition, and health trends. Up to 10,500 Steller sea lions may be harassed annually during capture and other activities. California sea lions, harbor seals, and northern elephant seals may also be harassed incidental to activities with Steller sea lions.

*File No. 715–1883:* The North Pacific Universities Marine Mammal Research Consortium (NPUMMRC), University of British Columbia, Vancouver, B.C.,

requests a 5–year permit to conduct physiological studies on captive northern fur seals to test the hypothesis that changes in food supply or environmental conditions are inducing a state of nutritional stress that is causing changes in survival or reproductive success. Up to 32 fur seal pups from St. Paul Island, AK, would be captured, restrained, and gender determined. Of those 32, up to 16 female pups would have blood samples taken and a veterinary heath exam performed. Of those 16, up to eight pups would be held in temporary enclosures for up to seven days for further health testing (blood sampling, physical exams). Of those eight, six female pups would be transported to the Vancouver Aquarium, Canada, for long-term physiological and nutritional research. During capture operations, up to 185 fur seals may be incidentally disturbed. The NPUMMRC requests up to one research-related mortality over the duration of the permit. While the actual captures will occur in a single year, the NPUMMRC has requested a 5–year permit to allow for flexibility in logistical coordination of the captures.

*File No. 715–1884:* The NPUMMRC requests a 5–year permit to continue to study the distribution, life history, physiology, and foraging and behavioral ecology of northern fur seals on the Pribilof Islands and Bogoslof Island. Research activities would occur from July to October, annually, and involve harassment of animals for capture, measuring, flipper tagging, coded wire tagging, and blood, skin, blubber and vibrissae sampling (200 pups and 200 older animals per year). The pups would also be injected with tetracycline and be recaptured for age determination. Older animals would also be anesthetized and have a single post-canine tooth removed for aging. The NPUMMRC also requests to capture, measure, and attach scientific instruments to no more than 30 lactating females annually. An additional five lactating females per year would be processed as above; however, they would not have scientific instruments attached. Incidental disturbance of up to 1,800 pups and 775 older northern fur seals annually, and 100 Steller sea lions per year is requested. The NPUMMRC requests authorization for up to 10 research-related mortalities of northern fur seals per year. The NPUMMRC would also collect measurements, jaw bones, and teeth from subsistence hunted animals to assess body size and annual growth increments of northern fur seals.

*File No. 715–1885:* The NPUMMRC requests a 5–year permit to continue a long-term research program to test various hypotheses for the decline of Steller sea lions in Alaska. The research would result in disturbance of Steller sea lions by the following activities: behavioral and demographic observations (up to 10,000 individuals in the western DPS and 5,000 in the eastern DPS per year), scat collection (up to 40,000 individuals in the western DPS and 15,000 in the eastern DPS per year), collection of carcasses or parts of carcasses (up to 40,000 individuals in the western DPS and 15,000 in the eastern DPS per year), and aerial/boat surveys and camera maintenance (up to 10,000 individuals in the western DPS and 5,000 in the eastern DPS per year). NPUMMRC requests authorization for up to four research-related mortalities of Steller sea lions per year. Northern fur seals, California sea lions, harbor seals, Northern elephant seals (*Mirounga angustirostris*), and Killer whales (*Orcinus orca*) may be disturbed incidental to this research. In conjunction with branding conducted by other permit holders the NPUMMRC would also conduct a 2–year study to assess pain and distress associated with hot-branding of Steller sea lions. The study would use 96 pups per year and follow a 2 x2 design: with and without branding, and with and without a post-operative non-steroidal anti-inflammatory analgesic. Pain response would be measured using respiration rate, cortisol concentrations, body temperature, blood pressure, and using behavioral elements including movements and vocalizations.

*File No. 1118–1881:* The Aleut Community of St. Paul Island, Tribal Government, Ecosystem Conservation Office, St. Paul Island, Alaska, requests a 5–year permit to fulfill their Biosampling, Disentanglement, and Island Sentinel program responsibilities as established under the co-management agreement between NMFS and the Aleut Community. The Aleut Community of St. Paul Island requests authorization for incidental disturbance of up to 550 northern fur seals per year during the collection of biological samples from dead stranded and subsistence hunted marine mammals. These samples would be exported to researchers studying the decline of northern fur seals. Up to 6,500 northern fur seals may be disturbed during disentanglement events. The Island Sentinel program may result in the disturbance of up to 3,400 northern fur seals per year during haulout and rookery observations, monitoring, and remote camera maintenance. Steller sea lions and harbor seals may be disturbed during the course of any of these activities.

*File No. 1119–1882:* The Aleut Community of St. George Island, St. George Traditional Council, St. George Island, Alaska, requests a 5–year permit to fulfill their Biosampling, Disentanglement, and Island Sentinel program responsibilities as established under the co-management agreement between NMFS and the Aleut Community. The Aleut Community of St. George Island requests authorization for incidental disturbance of up to 450 northern fur seals per year during the collection of biological samples from dead stranded and subsistence hunted marine mammals. These samples would be exported to researchers studying the decline of northern fur seals. Up to 5,250 northern fur seals may be disturbed during disentanglement events. The Island Sentinel program may result in the disturbance of up to 3,400 northern fur seals per year during haulout and rookery observations, monitoring, and remote camera maintenance. Steller sea lions and harbor seals may be disturbed during the course of any of these activities.

*File No. 881–1745:* The ASLC requests a 5–year amendment to Permit No. 881–1745 to breed captive Steller sea lions at the ASLC, to produce up to four pups, and conduct studies related to gestation, lactation, and pup growth and development. Permit No. 881–1745, issued March 16, 2006 (59 FR 15387), currently allows studies on three adult (one male, two female) captive Steller sea lions held by the ASLC to investigate stress responses, endocrine and immune system function, and seasonal variations in normal biological parameters such as mass and body composition, and conduct of 'research and development' of external tags and attachments for future deployment on free-ranging animals. The purpose of the proposed amendment is to assess physical, metabolic, hormonal, and immunological changes related to gestation, lactation, and pup growth and development. The breeding part of this study may require the transfer of additional captive adult Steller sea lions from facilities in the U.S., or import from facilities in Canada. Offspring produced would be held at the ASLC for long-term physiological studies, or be transferred or exported to other facilities for permanent holding. During gestation the adult animals would be subject to currently permitted sampling procedures, with additional study-specific testing on the samples themselves. Milk samples would be collected from adult females. Offspring produced would be subject to sedation,

anesthesia, physical restraint, morphometric measurements, metabolic measurements, collection of urine and feces, blood sampling, and audio and visual recordings (e.g., audio, photographic, video, digital, thermal, radiographic). Offspring would be trained to encourage voluntarily participation in research activities to minimize the use of physical restraint, sedatives, or anesthetics during sampling. The ASLC requests one research-related mortality of any live-born Steller sea lion during the proposed study. The ASLC proposes that stillborn or spontaneously aborted pups not be considered related to the study or counted against any mortality allowance in their permit.

NMFS is preparing a Programmatic Environmental Impact Statement (PEIS) for Steller Sea Lion and Northern Fur Seal Research to evaluate the potential environmental impacts of awarding grants and issuing permits to facilitate research on these species. Information about the PEIS is available at *http://www.nmfs.noaa.gov/pr/permits/eis/steller.htm*.

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.

Documents may be reviewed in the following locations:

All Files: 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; *http://www.nmfs.noaa.gov/pr/permits/review.htm*;

File Nos. 782–1889 and 434–1892: Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426;

All Files except 434–1892: Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249; and

File Nos 782–1889 and 434–1892: Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

Dated: February 12, 2007.

**P. Michael Payne,**

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. E7–2689 Filed 2–14–07; 8:45 am]

BILLING CODE 3510–22–S

## COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

**[OJP (OJJDP) Docket No. 1465]**

### Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

**AGENCY:** Coordinating Council on Juvenile Justice and Delinquency Prevention.

**ACTION:** Notice of meeting.

**SUMMARY:** The Coordinating Council on Juvenile Justice and Delinquency Prevention (Council) is announcing its March 2, 2007 meeting.

**DATES:** Friday, March 2, 2007, 9 a.m. to 12 p.m.

**ADDRESSES:** The meeting will take place at the U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202 in the Barnard Auditorium.

**FOR FURTHER INFORMATION CONTACT:** Robin Delany-Shabazz, Designated Federal Official, by telephone at 202–307–9963 [*Note:* this is not a toll-free telephone number], or by e-mail at *Robin.Delany-Shabazz@usdoj.gov*.

**SUPPLEMENTARY INFORMATION:** The Coordinating Council on Juvenile Justice and Delinquency Prevention, established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2) will meet to carry out its advisory functions under Section 206 of the Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. 5601, et seq. Documents such as meeting announcements, agendas, minutes, and interim and final reports will be available on the Council's Web page at *www.JuvenileCouncil.gov*. (You may also verify the status of the meeting at that web address.)

Although designated agency representatives may attend, the Council membership is composed of the Attorney General (Chair), the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the Administrator of the Office of Juvenile Justice and Delinquency Prevention (Vice Chair), the Director of the Office of National Drug Control Policy, the Chief Executive Officer of the Corporation for National and Community Service, and the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement. Up to nine additional members are appointed by the Speaker of the House of Representatives, the Senate Majority Leader, and the President of the United States.

**Meeting Agenda**

The agenda for this meeting will include: (a) Report from the Council's working groups; (b) a panel and discussion about recovery in the Gulf States, the nexus between the education and juvenile justice systems, and implications for the federal agencies; (c) legislative, program and agency updates; and (d) other business and announcements.

**Registration**

For security purposes, members of the public who wish to attend the meeting must pre-register online at *http://www.juvenilecouncil.gov/* or by fax to: 301–945–4295 [Daryel Dunston at 240–221–4343 or e-mail, *ddunston@edjassociates.com* for questions], no later than Wednesday, February 28, 2007. [*Note:* these are not toll-free telephone numbers.] Additional identification documents may be required. Space is limited.

**Note:** Photo identification will be required for admission to the meeting.

**Written Comments**

Interested parties may submit written comments by Wednesday, February 28, 2007, to Robin Delany-Shabazz, Designated Federal Official for the Coordinating Council on Juvenile Justice and Delinquency Prevention, at *Robin.Delany-Shabazz@usdoj.gov*. The Coordinating Council on Juvenile Justice and Delinquency Prevention expects that the public statements presented will not repeat previously submitted statements. Written questions and comments from the public may be invited at this meeting.

**J. Robert Flores,**

*Administrator, Office of Juvenile Justice and Delinquency Prevention.*

[FR Doc. E7–2660 Filed 2–14–07; 8:45 am]

BILLING CODE 4410–18–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Department of Defense Task Force on the Future of the Military Health Care

**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.

*Date:* March 7, 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 Force's 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 9:30 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 3 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: February 12, 2007.

**L.M. Bynum,**

*Alternate OSD Federal Register, Liaison Officer, Department of Defense.*

[FR Doc. 07–727 Filed 2–13–07; 11:05 am]

**BILLING CODE 5001–06–M**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### Suspension of the Price Evaluation Adjustment for Small Disadvantaged Businesses

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Notice of 1-year suspension of the price evaluation adjustment for small disadvantaged businesses.

**SUMMARY:** The Director of Defense Procurement and Acquisition Policy has suspended the use of the price evaluation adjustment for small disadvantaged businesses (SDBs) in DoD procurements, as required by 10 U.S.C. 2323(e)(3), because DoD exceeded its 5 percent goal for contract awards to SDBs in fiscal year 2006. The suspension will be in effect for 1 year and will be reevaluated based on the level of DoD contract awards to SDBs achieved in fiscal year 2007.

**DATES:** *Effective Date:* March 10, 2007.

*Applicability Date:* This suspension applies to all solicitations issued during the period from March 10, 2007, to March 9, 2008.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Pollack, Defense Procurement and Acquisition Policy, OUSD(AT&L)DPAP(P), 3015 Defense Pentagon, Washington, DC 20301–3015; telephone (703) 697–8336; facsimile (703) 614–1254.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority granted in 10 U.S.C. 2323(e), DoD has previously granted SDBs a 10 percent price preference in certain acquisitions. This price preference is implemented in Subpart 19.11 of the Federal Acquisition Regulation. Section 801 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) amended 10 U.S.C. 2323(e)(3) to prohibit DoD from granting such a price preference for a 1-year period following a fiscal year in which DoD achieved the 5 percent goal for contract awards established in 10 U.S.C. 2323(a). Since, in fiscal year 2006, DoD exceeded this 5 percent goal, use of this price preference in DoD acquisitions must be suspended for a 1-year period, from March 10, 2007, to March 9, 2008.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

[FR Doc. E7–2687 Filed 2–14–07; 8:45 am]

**BILLING CODE 5001–08–P**

## DELAWARE RIVER BASIN COMMISSION

### Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Wednesday, February 28, 2007. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's office building, located at 25 State Police Drive in West Trenton, New Jersey.

The conference among the commissioners and staff will begin at 10:15 a.m. Topics include a presentation by the Delaware Riverkeeper Network on islands of the Delaware River; a presentation on the Flood Mitigation Task Force report and recommendations; a presentation on the proposed Flexible Flow Management Plan (FFMP) for the New York City Delaware Basin Reservoirs; and remarks by Natural Resources Conservation Service (NRCS) representatives regarding NRCS activities and proposed activities within the Basin.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed below:

1. *Mount Airy #1, LLC D–89–37–3.* An application for the renewal of a ground and surface water withdrawal project to continue withdrawal of 9.5 mg/30 days from Wells Nos. 1 and 2 and up to 14 mg/30 days from a surface water intake on Forest Hills Run to supply the applicant's public water supply distribution and golf course irrigation systems, respectively, in the Long Run Member of the Catskill Formation. The project is located in the Forest Hills Run Watershed in Paradise Township, Monroe County, Pennsylvania. This withdrawal project is located within the drainage area to the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters.

2. *BP Oil Products North America D–91–32–4.* An application for the renewal

of a ground water decontamination project at the former Paulsboro Refinery to continue withdrawal of 30 mg/30 days for on-site treatment and discharge to the Delaware River through the existing outfall in DRBC Water Quality Zone 4. Up to 1 mgd of ground water is withdrawn from existing Wells Nos. R–4A, R–5A, R–6A, R–8, R–9, R–10, R–11, and R–12; all located just outside of New Jersey Critical Area 2 of the Potomac-Raritan-Magothy Formation. The project is located off Mantua Avenue in Paulsboro Borough, Gloucester County, New Jersey.

3. *Paunnacussing Founders, Inc. D–96–42–2.* An application for renewal of a ground water withdrawal project to continue withdrawal of up to 6 mg/30 days to supply the applicant's Lookaway Golf Course from existing Wells PW–2 and PW–3. The project is located in the Brunswick Formation in the Mill Creek Watershed in Buckingham Township, Bucks County, Pennsylvania and is located in the Southeastern Pennsylvania Ground Water Protected Area.

4. *Freeland Borough Municipal Authority D–65–52 CP–2.* An application for the approval of an extension of service area for the Freeland Borough Municipal Authority's Wastewater Treatment Plant (WWTP). The current WWTP serves Freeland Borough, with the new service area consisting of a portion of Foster Township. The existing WWTP's permitted discharge of 0.75 million gallons per day (mgd) will not be increased as a result of the new service area addition. The WWTP will continue to discharge to Pond Creek, a tributary to the Lehigh River, which is a tributary to the Lower Delaware River Special Protection Waters. The facility is located in Freeland Borough, Luzerne County, Pennsylvania.

5. *General Chemical Corporation D–69–38–2.* An application to update the original docket approving the discharge from the onsite industrial waste treatment plant (IWTP). General Chemical Corporation has ceased chemical manufacturing at the site. The original docket approved a 28.9 mgd discharge from the IWTP, whereas the current application is for approval of a 0.1 mgd IWTP discharge. The current discharge consists primarily of treated groundwater infiltration and stormwater runoff. In addition to the change in discharge conditions, the Commission has terminated Surface Water Entitlement No. 146, which approved a 33 mgd non-contact cooling water withdrawal. The IWTP, which is located in Claymont, Delaware, will continue to discharge to the Delaware River.

6. *Spring City Borough D–74–61 CP–2.* An application for the approval of an expansion of the Spring City Borough WWTP from 0.345 mgd to 0.600 mgd. The expansion will include the addition of a 600,000 gallon equalization tank, pumps and associated appurtenances. The expansion is being conducted to comply with a Consent Order and Agreement between the Borough and PADEP to eliminate wet weather related sewage bypasses at the WWTP and at the Main Street Pump Station. The WWTP will continue to discharge to the Schuylkill River. The facility is located in Spring City Borough, Chester County, Pennsylvania.

7. *Birdsboro Municipal Authority D–74–126 CP–2.* An application for approval of the upgrade and expansion of the Birdsboro Municipal Authority's WWTP. The WWTP's permitted average daily discharge will be increased from 1.0 mgd to 1.35 mgd. The WWTP will continue to discharge to Hay Creek, which is a tributary to the Schuylkill River. The facility is located in the Borough of Birdsboro, Berks County, Pennsylvania.

8. *Myerstown Borough Sewer Authority D–74–176 CP–2.* An application for approval of an upgrade and expansion of the Myerstown Borough Sewer Authority's Wastewater Treatment Plant (WWTP). The WWTP is proposed to be expanded from 1.6 mgd to 2.0 mgd and will continue to discharge to the Tulpehocken Creek, which is a tributary of the Schuylkill River. The facility is located in Jackson Township, Lebanon County, Pennsylvania.

9. *Matamoras Municipal Authority D–81–78 CP–7.* An application for the renewal of a ground water withdrawal project to increase withdrawal from 11.7 mg/30 days to 19.5 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 3, 5, 7, 8 and 8A in the Pleistocene Outwash and Mahantango Formations. The increased allocation is requested in order to meet projected increases in service area demand. The project is located in the Delaware River Watershed in Matamoras Borough, Pike County, Pennsylvania. This withdrawal project is located within the drainage area to the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters.

10. *Pennsylvania Utility Company D–89–33 CP–3.* An application for the renewal of a ground water withdrawal project to increase withdrawal from 6.4 mg/30 days to 21.01 mg/30 days to supply the applicant's 2,500 acre Highland Village (former Tamiment Resort) development from existing Wells Nos. 1, 2 and 3 in the Towamensing Member of the Catskill Formation. The increased allocation is requested in order to meet projected increases in service area demand. The project is located in the Little Bushkill Creek Watershed in Lehman Township, Pike County, Pennsylvania. This withdrawal project is located within the drainage area to the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters.

11. *Joint Municipal Authority of Wyomissing Valley D–91–9 CP–2.* An application for approval to modify the solids handling facilities at the Joint Municipal Authority of Wyomissing Valley WWTP. No change in the WWTP design capacity of 4 mgd is proposed. Existing solids handling facilities at the WWTP will be upgraded to improve WWTP sludge for liquid land application and/or dewatering prior to landfill disposal. WWTP effluent will continue to discharge to Wyomissing Creek in the Schuylkill River Watershed through the existing outfall. The WWTP is located in the City of Reading, Berks County, Pennsylvania. The WWTP will continue to serve the following municipalities: the Boroughs of West Reading, Wyomissing, Shillington and Mohnton; and portions of the Borough of Wyomissing Hills, Spring and Cumru Townships, and the City of Reading, all within Berks County.

12. *Pennsylvania American Water Company D–92–64 CP–2.* An application for the modification, reconstruction and expansion of an existing wastewater treatment plant to meet regional growth needs and more stringent water quality requirements. The WWTP discharge, located in the West Branch Brandywine Creek in Interstate Water Quality Zone C7, will increase from 3.85 mgd to 7.0 mgd. The facility is located in South Coatesville Borough, Chester County, Pennsylvania.

13. *Pennsgrove Water Supply Company D–93–77 CP–2.* An application for the renewal of a ground water withdrawal project to increase withdrawal from 58.9 mg/30 days to 70.4 mg/30 days and up to 753 mg/year to supply the applicant's public water supply distribution system from existing Wells RF1A, RF2B, RF3A, 2, 4, 7 and 11 in the Potomac-Raritan-Magothy Formation. The project is located in the Delaware River Watershed in Carneys Point Township, Salem County, New Jersey and is located just outside of the influence of New Jersey Critical Water Supply Area No. 2.

14. *Borough of Fleetwood D–95–58 CP–2.* An application for approval of a

ground and surface water withdrawal project to supply up to 25.92 mg/30 days of water to the applicant's public water supply distribution system from new Well No. 15 and to increase the total withdrawal from all wells and surface water intakes from 27.5 mg/30 days to 54.39 mg/30 days. The increased allocation is requested in order to meet projected increases in service area demand. The new well is located in the Allentown Formation in the Willow Creek Watershed in Richmond Township, Berks County, Pennsylvania.

15. *Pennsylvania American Water Company D–99–30 CP–4.* An application for approval of a ground water withdrawal project to supply up to 12.96 mg/30 days of water to the applicant's Glen Alsace public water supply distribution system from new Well G–9A in the Brunswick Formation, and to retain the existing maximum withdrawal from all wells of 50 mg/30 days. The Glen Alsace distribution system also receives water from two existing interconnections—one with the Reading Area Water Authority (45 mg/30 days) and the other with the Mount Penn Water Authority (6 mg/30 days)—and conveys water to the Pennsylvania American Water Company's Douglasville public water supply distribution system in Amity Township, Pennsylvania. The project is located in the Antietam Creek Watershed in Exeter Township, Berks County, Pennsylvania.

16. *Burlington Township D–99–50 CP–2.* An application for the renewal of a ground water withdrawal project to increase withdrawal from 113 mg/30 days to 129.8 mg/30 days of water to the applicant's public water supply system from new Well No. 8 and existing Wells Nos. 1A, 2, 3, 4, 5, 6 and 7. The project is located in the Potomac-Raritan-Magothy Formation in Burlington Township, Burlington County, New Jersey.

17. *City of Easton D–99–62 CP.* An application to expand the applicant's water filtration plant to 16 mgd and increase its surface water withdrawal allocation from 10 mgd to 13 mgd (390 mg/month) via its intake on the Delaware River at the northeast edge of the City of Easton, Northampton County, Pennsylvania. The proposed expansion is needed to serve increased population in the service areas of both the applicant and its main subsidiary customer, Easton Suburban Water Authority. The combined service area of both the City of Easton and the Easton Suburban Water Authority includes the City of Easton; Wilson, Glendon and West Easton Boroughs; Palmer and Forks Townships; and portions of Williams, Bethlehem, Plainfield, Lower Mount Bethel and Lower Nazareth Townships; all in Northampton County, Pennsylvania.

18. *Buckingham Township D–2003–13 CP–3.* An application for approval of a ground water withdrawal project to supply up to 1.0 mg/30 days of water to the applicant's Smith-Pfeiffer tract (also known as Forest Grove) distribution system from new Wells Nos. FG–1 and FG–2 and to increase the existing withdrawal from all wells from 41 mg/30 days to 42 mg/30 days in order to meet increased service area demand. The project is located in the Brunswick Formation in the Robin Run Watershed in Buckingham Township, Bucks County, Pennsylvania and is located in the Southeastern Pennsylvania Ground Water Protected Area.

19. *Three Lane Utilities, Inc. D–2006–25 CP–1.* An application for the approval of a ground water withdrawal project to supply up to 7.68 mg/30 days of water to the applicant's public water supply distribution system from new Well No. 5 and up to 2.25 mg/30 days from existing Well No. 3 and to limit the existing withdrawal from all wells to 9.93 mg/30 days. The project is located in the Mahantango Formation in the Delaware River Watershed in Westfall Township, Pike County, Pennsylvania.

20. *Downingtown Municipal Water Authority D–2006–31 CP–1.* An application for the approval of an existing backwash discharge from the Authority's water treatment plant. The facility discharges up to 0.1 mgd of filter and clarifier backwash and sludge bed filtrate to an unnamed tributary of Beaver Creek, which is a tributary of the East Branch Brandywine Creek. The facility is located in Downingtown Borough, Chester County, Pennsylvania.

21. *Little Washington Wastewater Company, Inc. D–2006–32–1.* An application for the approval of a new WWTP facility to serve the proposed Honeycroft Village residential development. The proposed 86,000 gpd treated discharge will be land-applied to a dedicated 14.1 acre spray area. The development, treatment facilities and spray irrigation area are located in the Doe Run Watershed. Doe Run is a tributary of the West Branch Brandywine Creek. The facilities are located in Londonderry Township, Chester County, Pennsylvania.

22. *Pennsylvania American Water Company D–2006–33–1.* An application for approval of a ground water withdrawal project to supply up to 18.57 mg/30 days of water to the applicant's Blue Mountain Lake public water supply distribution system from new Wells Nos. PW1 and PW2. The project is located in the Mahantango Formation in the Brodhead Creek Watershed in Stroud Township, Monroe County, Pennsylvania. This withdrawal project is located within the drainage area to a section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters.

23. *Concord Associates, LP D–2006–35–1.* An application for approval of a ground water withdrawal project to supply up to 6.0 mg/30 days of water to the applicant's distribution system from new Wells Nos. 1, 2 and PW–4. The project is located in the Upper Walton Formation in the Kiamesha Creek Watershed in the Town of Thompson, Sullivan County, New York, within the drainage area to a section of the non-tidal Delaware River known as the Upper Delaware, which is classified as Special Protection Waters.

24. *Pennsylvania American Water Company D–2006–36–1.* An application for approval to discharge filter backwash from PAWC's Rock Run water treatment plant (WTP). A discharge of 0.14 mgd is permitted from the WTP and will continue to be discharged to the Rock Run Reservoir, which is a tributary to the Brandywine Creek. The facility is located in West Caln Township, Chester County, Pennsylvania.

25. *United States Army Training Center and Fort Dix D–2006–40 CP–1.* An application for approval of a ground and surface water withdrawal project to supply up to 155 mg/30 days of water to the applicant's military base from Wells Nos. 2, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, Range 14, ASP, and ARDEC and from an intake on the Greenwood Branch of the North Branch Rancocas Creek. The project is located in the Middle Potomac-Raritan-Magothy, Englishtown, Cohansey, and Wenonah-Mt. Laurel aquifers in the Crosswicks Creek and North Branch Rancocas Creek Watersheds in New Hanover and Pemberton Townships, Burlington County and Plumstead and Manchester Townships, Ocean County, New Jersey.

26. *Lenape Regional High School District D–2006–42 CP–1.* An application for approval of a ground water withdrawal project to supply less than 3.1 mg/30 days of water to the applicant's irrigation and domestic supply system from new Wells Nos. 1, 2 and 3. The project is located in the Mt. Laurel and Cohansey Aquifers in the South Branch Rancocas Creek Watershed in Tabernacle Township, Burlington County, New Jersey.

In addition to the public hearing on the dockets listed above, the Commission's 1:30 p.m. business meeting will include: A public hearing

and consideration of a resolution approving amendments to Resolution 2006–18 concerning a Spill Mitigation Program for the New York City Delaware Basin Reservoirs; a resolution authorizing the Executive Director to enter into agreements for the implementation of Phase 2 of a study on Dwarf Wedgemussels, an endangered species found in sections of the main stem non-tidal Delaware River; a resolution authorizing the Executive Director to enter into an agreement for Periphyton analysis; a resolution authorizing the Executive Director to enter into an agreement with Hydrologics, Inc. for modeling services to link the OASIS flow model and estuary chloride model; a public hearing and consideration of a resolution authorizing the Executive Director to require point source dischargers within the Brodhead Creek Watershed to perform effluent sampling for nutrients for the purpose of implementing the Special Protection Waters program; a resolution approving minor amendments to the Administrative Manual—By-Laws, Management and Personnel; and a resolution approving the Commission's operating and capital budgets for Fiscal Year 2008.

The meeting will also include: adoption of the Minutes of the Commission's December 12, 2006 business meeting; announcements of upcoming advisory committee meetings and other events; a report by the Executive Director; a report by the Commission's General Counsel; and an opportunity for public dialogue.

Draft dockets scheduled for public hearing on February 28, 2007 will be posted on the Commission's Web site, *http://www.drbc.net*, where they can be accessed through the Notice of Commission Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Please contact William Muszynski at 609–883–9500, extension 221, with any docket-related questions.

Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the commission secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission can accommodate your needs.

Dated: February 9, 2007.

**Pamela M. Bush, Esquire,**

*Commission Secretary.*

[FR Doc. E7–2658 Filed 2–14–07; 8:45 am]

BILLING CODE 6360–01–P

## DEPARTMENT OF EDUCATION

### Special Demonstration Programs—Model Demonstration Projects—Improving the Postsecondary and Employment Outcomes of Youth With Disabilities

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice of proposed priority and definitions.

**SUMMARY:** The Assistant Secretary for Special Education and Rehabilitative Services (OSERS) proposes a priority and definitions under the Special Demonstrations Program administered by the Rehabilitation Services Administration (RSA). The Assistant Secretary may use the priority and definitions for competitions in fiscal year (FY) 2007 and later years. We take this action to focus Federal financial assistance on an identified area of national need. We intend the priority to improve the post-school and employment outcomes of youth with disabilities.

**DATES:** We must receive your comments on or before March 19, 2007.

**ADDRESSES:** Address all comments about the proposed priority and definitions to Edwin Powell, U.S. Department of Education, 400 Maryland Avenue, SW., room 5038, Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7505 or by e-mail: *edwin.powell@ed.gov*.

You must include the term ''Transition Priority'' in the subject line of your electronic message.

**FOR FURTHER INFORMATION CONTACT:** Edwin Powell. Telephone: (202) 245–7505, or via Internet: *edwin.powell@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:**

#### Invitation to Comment

We invite you to submit comments regarding the proposed priority and definitions.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from the proposed priority and definitions. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about the proposed priority and definitions in room 5038, Potomac Center Plaza, 550 12th Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

#### Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed priority and definitions. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

#### Background

Youth with disabilities face significant challenges both in the school environment and as they transition to adult life. National studies and reports have shown that, compared to their non-disabled peers, students with disabilities are less likely to receive a regular high school diploma; drop out twice as often; and enroll in and complete postsecondary education programs at half the rate; and, up to two years after leaving high school, about 4 in 10 youths with disabilities are employed as compared to 6 in 10 same-age out-of-school youth in the general population (National Center for Education Statistics, 2000; National Longitudinal Transition Study-2 (NLTS2), 2005). These and other related findings on the secondary and postsecondary outcomes of youth with disabilities have spurred Federal and State efforts to improve transition policies and practices.

The transition of youth with disabilities is a shared responsibility

under the Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act of 1973, as amended (Rehabilitation Act). Primary responsibility for the transition of children with disabilities under IDEA rests with State educational agencies (SEAs). However, the State Vocational Rehabilitation (VR) Services Program authorized under the Rehabilitation Act also has a key role facilitating the transition of youth with disabilities, including providing consultation and technical assistance to SEAs, participating in transition planning, identifying youth who are in need of VR services, and providing transition services to eligible individuals.

Federal and State efforts to improve the post-school outcomes of youth with disabilities have resulted in some important gains over the past decade, including increases in graduation rates, enrollment in postsecondary education, and the number of youth entering the workforce (Office of Special Education Programs, Data Analysis System (DANS); Newman, 2005; Cameto and Levine, 2005). Despite these gains, far too many youth with disabilities continue to experience difficulties in achieving successful post-school outcomes (NLTS2, 2005).

Complicating factors are that transition efforts involve coordination between many different parties and developing and implementing effective programs can be difficult. Interagency partnerships at the State and local level are needed to ensure effective agency collaboration, including coordination of policies and practices, sharing of knowledge, information, and other resources, and providing technical assistance and training. A State level interagency transition team can promote effective collaborative models, provide training and technical assistance across the State, and maintain communication and support for the transition community. Local community transition teams identify common goals and action plans, problem solve through interagency collaboration, create community-based options for students, seek funding, and implement action plans (Investing in the Transition of Youth with Disabilities to Productive Careers, Twenty-Eighth Institute on Rehabilitation Issues, 2002).

Although the scientifically-based research is limited, the literature indicates that there are a number of transition practices that, in addition to interagency collaboration, are associated with successful outcomes for youth with disabilities (Kohler, 1996; Benz, Lindstrom, and Yovanoff, 2000; National Collaborative on Workforce Disability for Youth, 2004). These practices include student-focused planning, career preparatory and pre-employment experiences, youth development activities, and enhancement of family involvement.

As the primary Federal vehicle for assisting individuals with disabilities to obtain employment, the VR program is a critical link in assisting youths with disabilities to prepare for education, training, and employment opportunities beyond high school. VR professionals bring to the table valuable knowledge and expertise about the world of work and disability, including career planning, occupational trends and local employment opportunities, job-related education, training and skills, job seeking and retention skills, and accommodations. They also are knowledgeable about adult service systems and the range of benefits and resources available to assist individuals with disabilities. However, research shows that there is an ongoing gap between transition service needs and VR professional involvement in assisting students with disabilities during the transition years (NLTS2, 2005).

Model transition programs that build on current collaborative State and local efforts and demonstrate the use of promising practices are needed to improve the postsecondary education and employment outcomes of youth with disabilities. These practices include the effective use of VR personnel in transition planning and the delivery of services.

We will announce the final priority and definitions in a notice in the **Federal Register**. We will determine the final priority and definitions after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or using other priorities and definitions, subject to meeting applicable rulemaking requirements.

**Note:** This notice does *not* solicit applications. In any year in which we choose to use the priority, we invite applications through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

*Absolute priority:* Under an absolute priority we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

*Competitive preference priority:* Under a competitive preference priority we give competitive preference to an application by either (1) Awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

*Invitational priority:* Under an invitational priority we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

**Priority**

The Assistant Secretary proposes this priority to support projects that demonstrate the use of promising practices of collaborative transition planning and service delivery in improving the postsecondary education and employment outcomes of youth with disabilities.

In order to meet this priority, an applicant must —

(1) Provide an assurance that the State has an interagency transition taskforce that provided input in the development of the application and that the interagency transition taskforce will—

(a) Play an advisory role in the operation of the project;

(b) Assist in the development of project goals;

(c) Review project findings; and

(d) Assist in the dissemination of project findings;

(2) Demonstrate that the project for which it seeks funding will—

(a) Implement a model transition program that is designed to improve post-school outcomes of students with disabilities through the use of local interagency transition teams and the implementation of a coordinated set of promising practices and strategies. The activities must be implemented at a minimum of two sites to be carried out in coordination with the applicable local educational agency (LEA) or LEAs;

(b) Provide transition services to youth with disabilities, including—

(i) Individualized VR services to youth with disabilities who are eligible for such services consistent with 34 CFR 361.42; and

(ii) Services to groups of youth with disabilities, through methods such as workshops and seminars, to support the transition of such youths to post-school and employment outcomes;

(c) Provide training and technical assistance to LEAs and State VR personnel responsible for planning and providing transition services to students with disabilities;

(d) Conduct outreach activities that assist in the identification of students with disabilities who are in need of VR services;

(e) Analyze and use the secondary education and post-school outcome data

of youth with disabilities collected by the SEA and other relevant data to assist the project to improve transition services and post-school outcomes;

(f) Conduct an evaluation of the project's performance, including an evaluation of the effectiveness of the practices and strategies implemented by the project in achieving project goals, particularly post-school outcomes;

(3) Provide evidence that the LEAs responsible for providing transition services to children with disabilities under the IDEA in the local sites proposed by the applicant will participate in carrying out project activities (*e.g.*, letter of support); and

(4) Provide a description of—

(a) The State interagency transition taskforce members, including their roles and responsibilities with respect to transition planning and the provision of services;

(b) The local interagency team members, including their roles and responsibilities with respect to transition planning and the provision of services;

(c) The coordinated set of promising practices that it proposes to provide, which, at a minimum, must include student-focused planning, career preparatory and pre-employment experiences, youth development activities, and practices to enhance family involvement;

(d) The evaluation plan, including project goals, measurable objectives, and operational definitions and the data to be collected and how it will be analyzed. At a minimum these data must include: high school exit data (academic achievement and functional performance data, high school graduation outcomes, including type of diploma received); student's post-school goals; services provided; postsecondary education outcomes; employment outcomes (type of employment, wages and earnings, hours worked, weeks of employment); and public benefits received such as Supplemental Security Income and Social Security Disability Insurance; and

(e) A plan for the systematic dissemination of project findings and knowledge gained that will assist State and local agencies in adapting or replicating the transition model carried out by the project.

**Definitions:**

(1) *Career preparatory and pre-employment experiences* means experiences and activities to help students become prepared for a successful future in postsecondary education or employment including: Instruction in learning and study strategies; career education activities that assist the student to form and develop career aspirations and to make informed choices about careers; structured work experiences such as job shadowing, volunteer and community service, and on-the-job training experiences; and employment skills instruction such as work-related behaviors and skills training, job seeking skills, and occupation-specific vocational skill training.

(2) *State interagency transition taskforce* means a group of individuals who meet on a regular basis to facilitate interagency collaboration and the coordination of practices and services to improve the transition of students with disabilities from secondary education to postsecondary education and employment, such as identifying and addressing systemic transition barriers; facilitating the coordination of transition policies, practices, and services within the State; providing technical assistance; and disseminating information on promising practices.

(a) The group must, at a minimum, include one or more representatives of the State VR agency (including, where applicable, the State VR agency for the Blind), SEA, State Labor and Employment/Workforce agency, Social Security Administration, State developmental disabilities agency, and the State mental health agency. The group must also include individuals to represent the perspectives of business and industry and transitioning youth with disabilities.

(b) The group may also include representatives from other relevant entities such as the State Rehabilitation Council (if applicable in the State), State Independent Living Council, State Developmental Disabilities and Mental Health Planning Councils, postsecondary educational institutions, transition service providers, parents of transitioning youth with a disability, and other stakeholders.

(3) *Student-focused planning* means activities designed to facilitate student participation, self-evaluation and self-determination, including goal setting and decision making within the planning process. Examples of such activities include the identification of student interests and preferences; use of educational, career and psychological assessments in the development of postsecondary education, training, and vocational goals; career, vocational counseling, and guidance; VR participation at individualized education program (IEP) meetings; joint IEP and individualized plan for employment (IPE) planning meetings; and timely referrals to adult service providers.

(4) *Transition services,* as defined in section (7)(37) of the Rehabilitation Act, means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post-school activities, including postsecondary education, vocational training, and integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based upon the individual student's needs, taking into account the students preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation.

(5) *Youth development activities* means activities that help students to control and direct their own lives based on informed decisions and to become self-sufficient and productive members of society such as learning to communicate their disability-related work support and accommodation needs and learning to find, request, and secure appropriate supports and reasonable accommodations in education, training and employment settings. Examples of youth development activities include: mentoring opportunities, training in life skills such as independent living skills, self-advocacy, and conflict resolution; exposure to personal leadership and youth development activities; and exposure to post-program supports.

(6) *Youth with disabilities* means individuals with a disability as defined in paragraph (b) of the definition of ''individual with a disability'' in 34 CFR 373.4 who is between the ages of 16 and 22.

**References**

Benz, M.R., Lindstrom, L. & Yovanoff, P. (Summer 2000). Improving graduation and employment outcomes of students with disabilities: Predictive factors and student perspectives. *Exceptional Children, 66 (4), 509–29.*

Cameto, R., Levine, P. & Wagner, M. (November 2004). Transition Planning for Students with Disabilities: A Special Report from *The National Longitudinal Transition Study-2.* Prepared For: Office Of Special Education Programs, U.S. Department Of Education, SRI Project P11182. Menlo Park, CA: SRI International.

Institute on Rehabilitation Issues, 2002. Investing in the Transition of Youth with

Disabilities to Productive Careers Twenty-Eighth University of Arkansas Region VI Rehabilitation Continuing Education Program

Kohler, P.D. (1996) Taxonomy for Transition Programming: A Model for Planning, Organizing, and Evaluating Transition Education, Services, and Programs.

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National Collaborative on Workforce Disability for Youth, Guideposts for Success, 2004.

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National Council on Disability, (May 2004). Improving Educational Outcomes for Students with Disabilities.

Wagner, M., Newman, L., Cameto, R., & Levine, P., (June 2005). Changes Over Time In The Early Post-school Outcomes Of Youth With Disabilities. *A Report from The National Longitudinal Transition Study-2.* Prepared For: Office Of Special Education Programs, U.S. Department Of Education, SRI Project P11182. Menlo Park, CA: SRI International.

United States Department of Education, Office of Special Education Programs, Data Analysis System (DANS), 2006

Wagner, M., Newman, L., Cameto, R., Garza, N., & Levine, P. (April 2005). After High School: A First Look At The Post-school Experiences Of Youth With Disabilities: *A Report from The National Longitudinal Transition Study-2.* Prepared For: Office Of Special Education Programs, U.S. Department Of Education, SRI Project P11182. Menlo Park, CA: SRI International.

## Executive Order 12866

This notice of proposed priority and definitions has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed priority and definitions are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of proposed priority, definitions, and application requirements we have determined that the benefits of the proposed priority and definitions justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

## Summary of potential costs and benefits

The Assistant Secretary has determined that the cost to the Federal Government associated with this program will not exceed $2,250,000 in FY 2007. No other costs will result from the announcement of this proposed priority and definitions.

The benefit of this proposed priority and definitions would be the establishment of model demonstration projects that will improve the postsecondary education and employment outcomes of students with disabilities.

## Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

*Applicable Program Regulations:* 34 CFR part 373.

## Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Number 84.235U Special Projects and Demonstrations).

**Program Authority:** 20 U.S.C. 773(b).

Dated: February 8, 2007.

**John H. Hager,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. E7–2685 Filed 2–14–07; 8:45 am]

BILLING CODE 4000–01–P

# DEPARTMENT OF ENERGY

## International Energy Agency Meeting

**AGENCY:** Department of Energy.

**ACTION:** Notice of Meetings.

**SUMMARY:** The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on February 20 and 21, 2007, at the headquarters of the IEA in Paris, France, including in connection with a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market on February 20, and a meeting of SEQ on February 21.

**DATES:** February 20–21, 2007.

**ADDRESSES:** 9, rue de la Fédération, Paris, France.

**FOR FURTHER INFORMATION CONTACT:** Samuel M. Bradley, Assistant General for International and National Security Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–6738.

**SUPPLEMENTARY INFORMATION:** In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meeting is provided:

Meetings of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, on February 20, 2007, beginning at 11 a.m. and continuing on February 21, 2007, at 9 a.m. and 10 a.m. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM) on February 20 beginning at 11 a.m.; at a preparatory encounter among IAB members on February 21 from approximately 9 a.m. to approximately 9:30 a.m.; and at a meeting of the SEQ on February 21 beginning at 10 a.m.

The agenda of the joint SEQ/SOM meeting on February 20 is under the control of the SEQ and the SOM. It is expected that the SEQ and the SOM will adopt the following agenda:

1. Adoption of the Agenda of the Joint SEQ/SOM Session.

2. Approval of the Summary Record of the November 2006 Joint SEQ/SOM Session.

## Part I: Market Updates

3. Natural Gas Market Update.

4. Current and Medium-term Oil Market Update.

**Part II: Workshop on Resource Nationalism**

5. From Resource Nationalism to Resource Management.
6. Russian Oil and Gas in Perspective.
7. Venezuela: Going Full Circle.
8. Assessing Investment Risks: Case Studies Impact of Contract and Ownership Change.
9. Resource Nationalism—Implications for Security and Supply.
10. Other Business.

The agenda of the IAB meeting on February 21, 2007, is review of the agenda for the SEQ meeting on that date beginning at 10 a.m.

The agenda of the SEQ meeting on February 21, 2007 is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda.
2. Approval of the Summary Record of the 118th Meeting. Approval of the Summary Record of the Joint Session of the SEQ/SOM.
3. Status of Compliance with IEP Stockholding Commitments.
   —Reports by Non-Complying Member countries.
4. Program of Work.
   —The SEQ Program of Work and Budget for 2007–2008.
   —Schedule of Upcoming Activities.
5. Emergency Response Review Program.
   —Emergency Response Review of Switzerland.
   —Emergency Response Review of Germany.
6. The Druzhba Pipeline Disruption of January 2007.
   —Overview of the January 2007 Druzhba Pipeline Disruption.
   —Lessons Learned by Member and Candidate Countries.
7. Report on Current Activities of the IAB.
8. Emergency Response Exercise 4.
   —First Steps Toward ERE 4.
5. Emergency Response Review Program (continued).
   —Emergency Response Review of Austria.
   —Emergency Response Review of the Slovak Republic.
9. Other Emergency Response Activities.
10. Activities with Non-Member Countries and International Organizations.
   —Update on Situation of Applicant Countries.
   —Office of Global Dialogue Activities.
11. Documents for Information.
   —Emergency Reserve Situation of IEA Member Countries on October 1, 2006.
   —Emergency Reserve Situation of IEA Candidate Countries on October 1, 2006.
   —Base Period Final Consumption: 4Q 2005–3Q 2006.
   —Monthly Oil Statistics: November 2006.
   —Update of Emergency Contacts List.
12. Other Business.
   —Panel of Arbitrators Nominations.
   —Dates of Next SEQ Meetings.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), the meetings of the IAB are open to representatives of members of the IAB and their counsel; representatives of members of the IEA's Standing Group on Emergency Questions and the IEA's Standing Group on the Oil Markets; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, the SOM, or the IEA.

Issued in Washington, DC, February 12, 2007.

**Samuel M. Bradley,**

*Assistant General Counsel for International and National Security Programs.*

[FR Doc. E7–2670 Filed 2–14–07; 8:45 am]

BILLING CODE 6450–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP07–15–002]**

### Central New York Oil and Gas Company, LLC; Notice of Compliance Filing

February 8, 2007.

Take notice that on February 2, 2007, Central New York Oil and Gas Company, LLC (CNYOG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to be effective February 1, 2007:

Third Revised Sheet No. 5
Third Revised Sheet No. 31
Third Revised Sheet No. 32
Second Revised Sheet No. 140

CNYOG states that the filing is being made to correct the pagination of the tariff sheets previously submitted on December 29, 2006, in the above-referenced docket.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5 p.m. Eastern Time on February 14, 2007.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E7–2588 Filed 2–14–07; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP07–73–000]**

### Dominion Transmission, Inc.; Notice Of Application

February 8, 2007.

Take notice that on January 29, 2007, Dominion Transmission, Inc. (Dominion), 120 Tredegar Street, Richmond, VA, filed in Docket No. CP07–73–000, an application pursuant to section 7(b) of the Natural Gas Act (NGA), to abandon well JW–242 located in Dominion's Oakford Storage Complex located in Westmoreland County, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be also viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or TTY, (202) 208–1659.

Pursuant to section 157.9 of the Commission's rules, 18 CFR § 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Any questions regarding this application should be directed to Matthew R. Bley, Manager, Gas Transmission Certificates, Dominion Transmission, Inc., 120 Tredegar Street, Richmond, VA 23219, at (804) 819–2877, or by facsimile at (804) 819–2064.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

*Comment Date:* March 1, 2007.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E7–2584 Filed 2–14–07; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP07–80–000]**

### Gulf South Pipeline Company, LP; Notice of Application

February 8, 2007.

Take notice that on February 2, 2007, Gulf South Pipeline Company, LP (Gulf South), 20 East Greenway Plaza, Houston, TX 77046 filed in Docket No. CP07–80–000, an application pursuant to section 7(b) of the Natural Gas Act (NGA), seeking authority to abandon by sale to Buffco Production, Inc., a producer, a 4.8 mile segment of the Latex-Ft. Worth line in Gregg County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be also viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or TTY, (202) 208–1659.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR § 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Any questions regarding this application should be directed to J. Kyle Stephens, Director of Certificates, by mail to: Gulf South Pipeline Company, LP (Gulf South), 20 East Greenway Plaza, Houston, TX 77046; or by telephone: (713) 544–7309; or by fax (713) 544–3540; or by e-mail *kyle.stephens@gulfsouthpl.com.*

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to

participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

*Comment Date:* March 1, 2007.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E7–2586 Filed 2–14–07; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP07–79–000]**

### Kinder Morgan Interstate Gas Transmission, LLC; Notice of Request Under Blanket Authorization

February 8, 2007.

Take notice that on February 2, 2007, Kinder Morgan Interstate Gas Transmission, LLC (Kinder Morgan), P.O. Box 281304, Lakewood, Colorado 80228–8304, filed in Docket No. CP07–79–000, a prior notice request pursuant to sections 157.205 and 157.211(a)(2) of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act to construct, own and operate a delivery point to serve Panhandle Feeders, Inc. (Panhandle Feeders) located in Scotts Bluff County, Nebraska, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Specifically, Kinder Morgan proposes to install a 2-inch hot tap and related facilities on its 16-inch diameter pipeline, which will serve as a bypass of Kinder Morgan, Inc.-Retail, the local distribution company currently providing natural gas service to Panhandle Feeders. Kinder Morgan states that the proposed facilities will not have an impact upon Kinder Morgan's peak day deliveries and that it has sufficient capacity to render the transportation service without detriment to its existing customers.

Any questions regarding the application should be directed to Skip George, Manager of Certificates, Kinder Morgan Interstate Gas Transmission, LLC, P.O. Box 281304, Lakewood, Colorado 80228–8304 at (303) 914–4969.

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E7–2585 Filed 2–14–07; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Settlement Agreement and Soliciting Comments

February 8, 2007.

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project No.:* P–2155–024.

c. *Date filed:* February 1, 2007.

d. *Applicant:* Pacific Gas & Electric Company (PG&E).

e. *Name of Project:* Chili Bar Hydroelectric Project.

f. *Location:* On the South Fork American River in El Dorado, near Placerville, California. The project affects 48 acres of Federal land administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Matthew A. Fogelson, P.O. Box 7442, San Francisco, CA 94120. (415) 973–6644.

i. *FERC Contact:* Jim Fargo, 888 First St., NE., Washington, DC 20426. (202) 502–6095.

j. *Deadline for filing comments:* March 10, 2007. Reply comments due March 25, 2007.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions

on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. PG&E filed a settlement on behalf of itself and the majority of Federal and State agencies and other stakeholders involved in the relicense proceeding. The purpose of the settlement agreement is to resolve all issues, except those that may arise under the Endangered Species Act, that have or could have been raised by the settling parties in connection with the Commission's issuance of a new license for the project and to establish PG&E's obligations for the protection, mitigation, and enhancement of resources affected by the project. SMUD asks that the settlement become the preferred alternative in lieu of the preferred alternative identified in the application for new license, filed with the Commission on July 15, 2005.

l. A copy of the settlement agreement is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E7–2583 Filed 2–14–07; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Settlement Agreement and Soliciting Comments

February 8, 2007.

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project No.:* P–2101–084.

c. *Date filed:* February 1, 2007.

d. *Applicant:* Sacramento Municipal Utility District (SMUD).

e. *Name of Project:* Upper American River Project.

f. *Location:* On the Rubicon River, Silver Creek, and South Fork of the American River near Placerville, California. The project affects 6,375 acres of Federal land administered by the El Dorado National Forest and 54 acres of Federal land administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Michael A. Swiger, Van Ness Feldman, Attorneys at Law, 1050 Thomas Jefferson St, NW., Washington, DC 20007, (202) 298–1891.

i. *FERC Contact:* Jim Fargo, 888 First St, NE., Washington, DC 20426, (202) 502–6095.

j. *Deadline for filing comments:* March 10, 2007. Reply comments due March 25, 2007.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. SMUD filed a settlement on behalf of itself and the majority of Federal and State agencies and other stakeholders involved in the relicense proceeding. The purpose of the settlement agreement is to resolve all issues, except those that may arise under the Endangered Species Act, that have or could have been raised by the settling parties in connection with the Commission's issuance of a new license for the project and to establish SMUD's obligations for the protection, mitigation, and enhancement of resources affected by the project. SMUD asks that the settlement become the preferred alternative in lieu of the preferred alternative identified in the application for new license, filed with the Commission on July 15, 2005.

l. A copy of the settlement agreement is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E7–2587 Filed 2–14–07; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–8278–5]**

### Meeting of the Mobile Sources Technical Review Subcommittee

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee (MSTRS) will meet in March 2007. This is an open meeting. The meeting will include discussion of current topics and presentations about activities being conducted by EPA's Office of Transportation and Air Quality. The preliminary agenda for the meeting, as well as the minutes from the previous (October 2006) meeting and any notices about change in venue will be posted on the Subcommittee's Web site: *http://www.epa.gov/air/caaac/mobile_sources.html*. MSTRS listserver subscribers will receive notification when the agenda is available on the Subcommittee Web site. To subscribe to the MSTRS listserver, go to *https://lists.epa.gov/cgi-bin/lyris.pl?enter=mstrs*. The site contains instructions and prompts for subscribing to the listserver service.

**DATES:** Wednesday, March 28, 2007 from 9 a.m. to 5 p.m. Registration begins at 8:30 a.m.

**ADDRESSES:** The meeting will be held at the Doubletree Hotel Crystal City-National Airport, 300 Army Navy Drive, Arlington, VA 22202–2891. Phone 703–416–4100. The hotel is located three blocks from the Pentagon City Metro station, and shuttle buses are available to and from both the Metro station and Washington Reagan National Airport.

**FOR FURTHER INFORMATION CONTACT:** *For technical information:* John Guy, Designated Federal Officer, Transportation and Regional Programs Division, Mailcode 6405J, U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *Ph:* 202–343–9276; *e-mail: guy.john@epa.gov.*

*For logistical and administrative information:* Ms. Cheryl Jackson, U.S. EPA, Transportation and Regional Programs Division, Mailcode 6405J, U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460; 202–343–4653; e-mail: *jackson.cheryl@epa.gov.*

Background on the work of the Subcommittee is available at: *http://www.epa.gov/air/caaac/mobile_sources.html.*

Individuals or organizations wishing to provide comments to the Subcommittee should submit them to Mr. Guy at the address above by March 13, 2007. The Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

**SUPPLEMENTARY INFORMATION:** During the meeting, the Subcommittee may also hear progress reports from some of its workgroups as well as updates and announcements on activities of general interest to attendees.

Dated: February 9, 2007.

**Margo Tsirigotis Oge,**

*Director, Office of Transportation and Air Quality.*

[FR Doc. E7–2672 Filed 2–14–07; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–8278–9]**

## Notice of Availability of the Final Nanotechnology White Paper.

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Document Availability.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is announcing the availability of the final ''Nanotechnology White Paper'' (EPA/100/B–07/001, February 2007). The purpose of the White Paper is to inform EPA management of the science issues and needs associated with nanotechnology, to support related EPA program office needs, and to communicate these nanotechnology science issues to stakeholders and the public. Nanotechnology is the understanding and control of matter at dimensions of roughly 1 to 100 nanometers, where unique phenomena enable novel applications. Encompassing nanoscale science, engineering and technology, nanotechnology involves imaging, measuring, modeling and manipulating matter at this length scale. At the nanoscale, the physical, chemical and biological properties of materials may differ in fundamental and valuable ways from the properties of individual atoms and molecules or bulk matter. Nanotechnology presents new opportunities to improve how we measure, monitor, manage and minimize contaminants in the environment. New generations of nanomaterials will evolve and with them new and possibly unforeseen environmental issues.

The White Paper provides a basic description of nanotechnology, why EPA is interested in it, potential environmental benefits of nanotechnology, risk assessment issues specific to nanotechnology, and a discussion of responsible development of nanotechnology and the Agency's statutory mandates. The paper then provides an extensive review of research needs for both environmental applications and implications of nanotechnology. To help EPA focus on priorities for the near term, the paper concludes with staff recommendations for addressing science issues and research needs, and includes prioritized research needs within most risk assessment topic areas (e.g., human health effects research, fate and transport research). In addition, the White Paper includes as Appendix C ''EPA's Nanotechnology Research Framework.'' The Nanotechnology Research Framework outlines how EPA will strategically focus its own research program to provide key information on potential environmental impacts from human or ecological exposure to nanomaterials in a manner that complements other federal, academic, and private-sector research activities. The Framework was developed by a cross agency team as a follow-up effort to the White Paper. The White Paper and Framework note the importance of complementing EPA's own research program by collaborating with other researchers.

**ADDRESSES:** The final document is available electronically through the Office of the Science Advisor's Web site at: *http://www.epa.gov/osa/nanotech.htm.* A limited number of paper copies will be available from EPA's National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242; telephone 1–800–490–9198; facsimile 301–604–3408; e-mail *NSCEP@bps-lmit.com.* Please provide your name and mailing addresses and the title and EPA number of the requested publication.

**FOR FURTHER INFORMATION CONTACT:** Dr. Kathryn Gallagher, Office of the Science Advisor, Mail Code 8105–R, Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460; telephone number: (202) 564–1398; fax number: (202) 564–2070, E-mail: *gallagher.kathryn@epa.gov.*

**SUPPLEMENTARY INFORMATION:** In December 2004, EPA's Science Policy Council created a cross-Agency workgroup charged with describing key science issues EPA should consider to ensure that society accrues the important benefits to environmental protection that nanotechnology may offer, as well as to better understand any potential risks from exposure to nanomaterials in the environment. This paper is the product of that workgroup. The draft paper was released as an external peer review draft in December 2005, and a **Federal Register** Notice (70 FR 75812) announced its availability and the opening of a docket for public comments. The document underwent independent peer review during an April 2006 expert peer review meeting (71 FR 14205), which was convened, organized and conducted by an EPA contractor. The external peer review meeting was publicly held, all public comments received in the docket were shared with the peer reviewers, and members of the public were also invited to give oral or provide written comments at the workshop regarding the draft document under review. The EPA revised the draft following the peer review meeting, and peer review and public comments were taken into consideration in finalizing the document.

Dated: February 12, 2007.

**George M. Gray,**

*EPA Science Advisor.*

[FR Doc. E7–2768 Filed 2–14–07; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the National Coordinator for Health Information Technology, American Health Information Community Population Health and Clinical Care Connections Workgroup Meeting

**ACTION:** Announcement of meeting.

**SUMMARY:** This notice announces the 14th meeting of the American Health Information Community Population Care and Clinical Care Connections Workgroup [formerly Biosurveillance Workgroup] in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.)

**DATES:** March 2, 2007, from 1 p.m. to 4 p.m.

**ADDRESSES:** Mary C. Switzer Building (330 C Street, SW, Washington, DC 20201), Conference Room 4090 (please bring photo ID for entry to a Federal building)

**FOR FURTHER INFORMATION CONTACT:** *http://www.hhs.gov/healthit/ahic/population/*

**SUPPLEMENTARY INFORMATION:** The Workgroup will discuss the priority area of Response Management.

The meeting will be available via internet access. For additional information, go to *http://www.hhs.gov/healthit/ahic/population/pop_instructhtml.*

Dated: February 7, 2007.

**Judith Sparrow,**

*Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.*

[FR Doc. 07–707 Filed 2–14–06; 8:45 am]

**BILLING CODE 4150–24–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the National Coordinator for Health Information Technology; American Health Information Community Meeting

**ACTION:** Announcement of meeting.

**SUMMARY:** This notice announces the 12th meeting of the American Health Information Community in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.) The American Health Information Community will advise the Secretary and recommend specific actions to achieve a common interoperability framework for health information technology (IT).

**DATES:** March 13, 2007, from 8:30 a.m. to 3 p.m.

**ADDRESSES:** Hubert H. Humphrey building (200 Independence Avenue, SW., Washington, DC 20201), Conference Room 800.

**FOR FURTHER INFORMATION CONTACT:** Visit *http://www.hhs.gov/healthit/ahic.html.*

**SUPPLEMENTARY INFORMATION:** The meeting will include presentations by the Quality, Population Health and Clinical Care Connections, Consumer Empowerment, and Confidentiality, Privacy and Security Workgroups on their Recommendations; an update on the Certification Commission for Healthcare Information Technology (CCHIT); and a panel presentation on Privacy and Security issues.

A Web cast of the Community meeting will be available on the NIH Web site at: *http://www.videocast.nih.gov/.*

If you have special needs for the meeting, please contact (202) 690–7151.

Dated: February 7, 2007.

**Judith Sparrow,**

*Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.*

[FR Doc. 07–708 Filed 2–14–07; 8:45 am]

**BILLING CODE 4150–24–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30 Day–07–05CO]**

### Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

**Proposed Project**

The Centers for Disease Control and Prevention's Consumer Response Services Center (CDC–INFO) Evaluation-New-National Center for Health Marketing (NCHM), Centers for Disease Control and Prevention (CDC).

**Background and Brief Description**

CDC is launching an integrated ''one face to the public'' approach across all communication channels to handle inquiries concerning a broad spectrum of public health topics. The overall objective is to ensure consistent, timely, reliable health information for dissemination to a variety of consumers (public, health professionals, researchers, etc.) and to address variations in inquiry volumes related to public health emergencies, news events, and dynamic, shifting public health priorities. The CDC has integrated over 40 hotlines into one Consumer Response Services Center CDC–INFO. CDC–INFO has an exceptionally wide scope because content currently divided between over 40 hotlines handling nearly 2,000,000 telephone contacts annually will be consolidated under CDC–INFO. All CDC hotlines were consolidated in one center beginning in February 2005, with all CDC program areas transitioning into CDC–INFO through a phased approach during the next three years. CDC–INFO itself will be operational for at least the next seven years. The primary objectives of the national evaluation are to (1) Proactively evaluate customer interactions and service effectiveness by employing assessment measures and data collection mechanisms to support performance management, gathering insights and understandings for improving service levels, and implementing effective measures to meet customer satisfaction goals; (2) develop an ongoing understanding of customer requirements and satisfaction trends to achieve best of practice quality standards and to provide qualitative assessments, quantitative data, and cost factors to drive improvement and reinforce operational objectives; (3) measure CDC–INFO contractor service performance to assist in determining whether performance incentives have been achieved; and (4) to collect data in order to address public concern and response to emergencies, outbreaks, and media events.

Sample size, respondent burden, and intrusiveness have been minimized to be consistent with national evaluation objectives. Procedures will be employed to safeguard the privacy and confidentiality of participants. Pilot tests assisted in controlling burden and ensuring the user-relevance of questions. The following table shows the estimated annualized burden for data collection. There are no respondent

costs other than the amount of time required to respond to the survey.

ESTIMATED ANNUALIZED BURDEN HOURS

| Data collection instrument | Number of respondents | Responses/ respondent | Average burden per response (in hrs) | Average annual burden hours |
|---|---|---|---|---|
| Satisfaction survey (callers) | 25,000 | 1 | 3/60 | 1,250 |
| Satisfaction survey (e-mail inquiries) | 330 | 1 | 3/60 | 17 |
| Follow up survey | 3,125 | 1 | 7/60 | 365 |
| Key informant survey | 100 | 1 | 7/60 | 12 |
| Postcard survey for bulk mailing | 950 | 1 | 1/60 | 16 |
| Postcard survey for individual publications | 2,100 | 1 | 1/60 | 35 |
| Web survey for e-mail publication orders | 1,000 | 1 | 1/60 | 17 |
| Web survey for internet publications | 950 | 1 | 1/60 | 16 |
| Special event/Outreach survey—General Public | 25,600 | 1 | 5/60 | 2,133 |
| Special event/Outreach survey—Professionals | 10,400 | 1 | 5/60 | 867 |
| Emergency response survey—Level 1 emergency—General Public | 31,151 | 1 | 5/60 | 2596 |
| Emergency response survey—Level 1 emergency—Professionals | 7,459 | 1 | 5/60 | 622 |
| Emergency response survey—Level 2 emergency—General Public | 57,579 | 1 | 5/60 | 4798 |
| Emergency response survey—Level 2 emergency—Professionals | 51,821 | 1 | 5/60 | 4318 |
| Emergency response survey—Level 3 emergency—General Public | 351,863 | 1 | 5/60 | 29,322 |
| Emergency response survey—Level 3 emergency—Professional | 316,678 | 1 | 5/60 | 26,390 |
| Emergency response survey—Level 4 emergency—General Public | 645,630 | 1 | 5/60 | 53,803 |
| Emergency response survey—Level 4 emergency—Professional | 596,504 | 1 | 5/60 | 49,709 |
| Total Burden Hours | | | | 176,286 |

Dated: February 6, 2007.

**Joan F. Karr,**

*Acting Reports Clearance Officer, Centers for Disease Control and Prevention.*

[FR Doc. E7–2637 Filed 2–14–07; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 2006N–0430]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; General Licensing Provisions: Biologics License Application, Changes to an Approved Application, Labeling, Revocation and Suspension, Postmarketing Studies Status Reports, and Forms FDA 356h and 2567; Correction

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of February 2, 2007 (72 FR 5057). The document announced that an opportunity for public comment on a proposed collection of information had been submitted to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1995. The notice published with an error in titles referring to an FDA form number in two places in the document. This document corrects those errors.

**DATES:** February 15, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jonna Capezzuto, Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of Friday, February 2, 2007, the following corrections are made on page 5057:

1. In the first column, in the ninth line of the title of the document, the phrase ''Forms FDA 456h'' is corrected to read ''Forms FDA 356h''.

2. In the second column, in the **SUPPLEMENTARY INFORMATION** section of the document, in the sixth line of the title, the phrase ''Forms FDA 456h'' is corrected to read ''Forms FDA 356h''.

Dated: February 8, 2007.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. E7–2576 Filed 2–14–07; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 2006N–0436]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Guidance for Industry on How To Use E-Mail To Submit a Study Protocol

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by March 19, 2007.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974.

**FOR FURTHER INFORMATION CONTACT:** Denver Presley, Jr., Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers

Lane, Rockville, MD 20857, 301–827–1472.

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance:

### Guidance for Industry on "How To Use E-Mail To Submit a Study Protocol"—21 CFR 58.120; 21 CFR 514.117(b); (OMB Control Number 0910–0524)—Extension

Protocols for nonclinical laboratory studies (safety studies), are required under 21 CFR 58.120 for approval of new animal drugs. Protocols for adequate and well-controlled effectiveness studies are required under 21 CFR 514.117(b). Upon request by the animal drug sponsors, the Center for Veterinary Medicine (CVM), reviews protocols for safety and effectiveness studies that CVM and the sponsor consider to be an essential part of the basis for making the decision to approve or not approve an animal drug application or supplemental animal drug application. Establishing a process for acceptance of the electronic submission of protocols for studies conducted by sponsors in support of new animal drug applications (NADAs), is part of CVM's ongoing initiative to provide a method for paperless submissions. Sponsors may submit protocols to CVM in paper format. CVM's guidance on how to submit a study protocol permits sponsors to submit a protocol without data as an e-mail attachment via the Internet. CVM's guidance on how to submit a study protocol electronically implements provisions of the Government Paperwork Elimination Act (GPEA). The GPEA required Federal agencies, by October 21, 2003, to provide for the: (1) Option of the electronic maintenance, submission, or disclosure of information, if practicable, as a substitution for paper; and (2) use and acceptance of electronic signatures, where applicable.

FDA is also seeking an extension of an existing paperwork clearance for form FDA 3536 to facilitate the use of electronic submission of protocols. This collection of information is for the benefit of animal drug sponsors, giving them the flexibility to submit data for review via the Internet.

In the **Federal Register** of November 8, 2006 (71 FR 65534), FDA published a 60-day notice soliciting public comment on the proposed collection of information requirements. In response to that notice, no comments were received.

The likely respondents for this collection of information are sponsors of NADAs.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

| 21 CFR Section/ Form No. | No. of Respondents | Annual Frequency per Response | Total Annual Responses[2] | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| 514.117 ( b)<br>58.120 / Form 3536 | 25 | 4.2 | 103 | 0.20 | 20.6 |

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.
[2]Electronic submissions received between July 1, 2005, and June 30, 2006.

The number of respondents in table 1 of this document is the number of sponsors registered to make electronic submissions (25). The number of total annual responses is based on a review of the actual number of such submissions made between July 1, 2005, and June 30, 2006. 103 x hours per response (.20) = 20.6 total hours.

Dated: February 8, 2007.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. E7–2577 Filed 2–14–07; 8:45 am]

**BILLING CODE 4160–01–S**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

**[Docket No. 2006N–0381]**

## Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Mammography Quality Standards Act Requirements

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by March 19, 2007.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974.

**FOR FURTHER INFORMATION CONTACT:** Denver Presley, Jr., Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

### The Mammography Quality Standards Act Requirements—21 CFR Part 900 (OMB Control Number 0910–0309)—Extension

Mammography Quality Standards Act requires the establishment of a Federal certification and inspection program for mammography facilities; regulations and standards for accreditation and certification bodies for mammography facilities, and standards for mammography equipment, personnel, and practices, including quality assurance. The intent of these regulations is to ensure safe, reliable, and accurate mammography on a nationwide level.

Under the regulations, as a first step in becoming certified, mammography facilities must become accredited by an FDA approved accreditation body. This requires undergoing a review of their clinical images and providing the accreditation body with information showing that they meet the equipment, personnel, quality assurance and quality control standards, and have a medical reporting and recordkeeping program, a medical outcomes audit program, and a consumer compliant mechanism. On the basis of this accreditation, facilities are then certified by FDA or an FDA-

approved State certification agency and must prominently display their certificate. These actions are taken to ensure safe, accurate, and reliable mammography on a nationwide basis.

In the **Federal Register** of September 22, 2006 (71 FR 55488), FDA published a 60-day notice soliciting public comments on the information collection requirements of the proposed collection. In response to that notice, no comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

| 21 CFR Section/ FDA Form | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours | Total Capital Costs | Total Operating & Maintenance Costs |
|---|---|---|---|---|---|---|---|
| 900.3(b)(1) | 0.33 | 1 | 0.33 | 1 | 0.33 | | |
| 900.3(b)(3) full[1] | 0.33 | 1 | 0.33 | 320 | 106 | $10,000 | |
| 900.3(b)(3) limited[2] | 5 | 1 | 5 | 30 | 150 | | |
| 900.3(d)(2) | 0.1 | 1 | 0.1 | 30 | 3 | | |
| 900.3(d)(5) | 0.1 | 1 | 0.1 | 30 | 3 | | |
| 900.3(e) | 0.1 | 1 | 0.1 | 1 | 0.1 | | |
| 900.3(f)(2) | 0.1 | 1 | 0.1 | 200 | 20 | | $36 |
| 900.4(c) facility[3] | 2,947 | 1 | 2,947 | 1.54 | 4,538 | | |
| 900.4(c) AB[4] | 6 | 1 | 6 | 378 | 2,268 | | $117,867 |
| 900.4(d) facility[3] | 2,947 | 1 | 2,947 | 0.77 | 2,269 | | |
| 900.4(d) AB[4] | 6 | 1 | 6 | 189 | 1,134 | | |
| 900.4(e) facility[3] | 8,840 | 1 | 8,840 | 1 | 8,840 | | $8,840 |
| 900.4(e) AB[4] | 6 | 1 | 6 | 1,473 | 8,838 | | |
| 900.4(f) | 336 | 1 | 336 | 7 | 2,352 | | $77,840 |
| 900.4(h) facility[3] | 8,840 | 1 | 8,840 | 1 | 8,840 | | $3,536 |
| 900.4(h) AB[4] | 6 | 1 | 6 | 10 | 60 | | |
| 900.4(i)(2) | 1 | 1 | 1 | 16 | 16 | | |
| 900.6(c)(1) | 0.1 | 1 | 0.1 | 60 | 6 | | |
| 900.11(b)(3) | 5 | 1 | 5 | 0.5 | 2.5 | | |
| 900.11(c) | 270 | 1 | 270 | 5 | 1,350 | | |
| 900.12(c)(2) | 8,840 | 4,072 | 36,000,000 | 0.083 | 3,000,000 | | $14,400,000[5] |
| 900.12(c)(2) patient refusal[5] | 89 | 1 | 89 | 0.5 | 44.5 | | |
| 900.12(h)(4) | 5 | 1 | 5 | 1 | 5 | | |
| 900.12(j)(1) facility[3] | 25 | 1 | 25 | 200 | 5,000 | | $250 |
| 900.12(j)(1) AB[4] | 25 | 1 | 25 | 1,000 | 25,000 | | $750 |
| 900.12(j)(2) | 3 | 1 | 3 | 100 | 300 | | $3,604 |
| 900.15(c) | 5 | 1 | 5 | 2 | 10 | | |
| 900.15(d)(3)(ii) | 1 | 1 | 1 | 2 | 2 | | |
| 900.18(c) | 2 | 1 | 2 | 2 | 4 | | |
| 900.18(e) | 2 | 1 | 2 | 1 | 2 | | |
| 900.21(b) | 1 | 1 | 1 | 320 | 320 | $30,000 | $71 |
| 900.21(c)(2) | 0.3 | 1 | 0.33 | 30 | 10 | | |
| 900.22(h) | 6 | 200 | 1,200 | 0.083 | 100 | | |
| 900.22(i) | 2 | 1 | 2 | 30 | 60 | | |
| 900.23 | 6 | 1 | 6 | 20 | 120 | | |
| 900.24(a) | 0.3 | 1 | 0.3 | 200 | 60 | | $26 |
| 900.24(a)(2) | 0.15 | 1 | 0.15 | 100 | 15 | | $13 |
| 900.24(b) | 1.2 | 1 | 1.2 | 30 | 36 | | |
| 900.24(b)(1) | 0.3 | 1 | 0.3 | 200 | 60 | | $26 |
| 900.24(b)(3) | 0.15 | 1 | 0.15 | 100 | 15 | | $13 |
| 900.25(a) | 0.2 | 1 | 0.2 | 16 | 3.2 | | |
| FDA Form 3422 | 700 | 1 | 700 | 0.25 | 175 | | |
| TOTAL | | | | | 3,072,138 | $40,000 | $14,612,872 |

[1] Refers to entities that are applying for the first time.
[2] Refers to accreditation bodies applying to accredit specific Full Field Digital Mammography units.
[3] Refers to the facility component of the burden for this requirement.
[4] Refers to the accreditation body component of the burden for this requirement.
[5] Refers to the situation where a patient specifically does not want to receive the lay summary of her exam.

TABLE 2. —ESTIMATED ANNUAL RECORDKEEPING BURDEN

| 21 CFR Section | Number of Recordkeepers | Annual Frequency of Recordkeeping | Total Annual Records | Hours per Record | Total Hours | Total Capital Costs | Total Operating & Maintenance Costs |
|---|---|---|---|---|---|---|---|
| 900.4(g) | 6 | 1 | 6 | 1 | 6 | | |
| 900.12(a)(1)(i)(B)(2) | 89 | 1 | 89 | 8 | 712 | | |
| 900.12(a)(4) | 8,840 | 4 | 35,360 | 1 | 35,360 | | |
| 900.12(c)(4) | 8,840 | 1 | 8,840 | 1 | 8,840 | $25,000 | |
| 900.12(e)(13) | 8,840 | 52 | 459,680 | 0.083 | 38,154 | | |
| 900.12(f) | 8,840 | 1 | 8,840 | 16 | 141,440 | | |
| 900.12(h)(2) | 8,840 | 2 | 17,680 | 1 | 17,680 | | |

TABLE 2. —ESTIMATED ANNUAL RECORDKEEPING BURDEN—Continued

| 21 CFR Section | Number of Record-keepers | Annual Fre-quency of Recordkeeping | Total Annual Records | Hours per Record | Total Hours | Total Capital Costs | Total Oper-ating & Mainte-nance Costs |
|---|---|---|---|---|---|---|---|
| 900.22(a) | 6 | 1 | 6 | 1 | 6 | | |
| 900.22(d) | 6 | 1 | 6 | 1 | 6 | | |
| 900.22(e) | 6 | 1 | 6 | 1 | 6 | | |
| 900.22(f) | 3 | 1 | 3 | 1 | 3 | | |
| 900.22(g) | 6 | 1 | 6 | 1 | 6 | | $60 |
| 900.25(b) | 6 | 1 | 6 | 1 | 6 | | |
| Total | | | | | 242,225 | $25,000 | $60 |

This request for OMB approval now serves to consolidate previously issued information collection, OMB control number 0910–0580 into 0910–0309. The hourly burden as well as the associated operating costs were increased to better represent the actual burden and costs on facilities and accreditation bodies.

The following regulations were not included in the above burden tables because they were considered usual and customary practice and were part of the standard of care prior to the implementation of the regulations. Therefore, they resulted in no additional reporting or recordkeeping burden: 21 CFR 900.12(c)(1) and (c)(3) and § 900.3(f)(1) (21 CFR 900.3(f)(1)).

The following regulations were not included in the above burden tables because they were not considered applicable during the information collection period or their burdens were reported under other regulatory requirements. Therefore, they resulted in no additional reporting or recordkeeping burden: § 900.3(c), 21 CFR 900.11(b)(1) and (b)(2), and 900.24(c).

Dated: February 8, 2007.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. E7–2578 Filed 2–14–07; 8:45 am]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 2006N–0434]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Guidance for Industry on How to Use E-Mail to Submit a Request for a Meeting or Teleconference to the Office Of New Animal Drug Evaluation

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by March 19, 2007.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974.

**FOR FURTHER INFORMATION CONTACT:** Denver Presley, Jr., Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

**How to Use E-Mail to Submit a Request for a Meeting or Teleconference to the Office Of New Animal Drug Evaluation—21 CFR 10.65 (OMB Control Number 0910–0452)—Extension**

The Center for Veterinary Medicine (CVM) holds meetings and /or teleconferences when a sponsor requests a presubmission conference under 21 CFR 514.5, or requests a meeting to discuss general questions. Generally, meeting requests are submitted to CVM on paper. However, CVM now allows registered sponsors to submit information electronically, and to request meetings electronically, if they determine this is more efficient and time saving for them. CVM's guidance ''On How to Use E-Mail to Submit a Request for a Meeting or Teleconference to the Office of New Animal Drug Evaluation'' provides sponsors with the option to submit a request for a meeting or teleconference as an e-mail attachment via the internet.

In the **Federal Register** of November 8, 2006 (71 FR 65535), FDA published a 60-day notice soliciting comments on the proposed collection of information requirements. In response to that notice, no comments were received.

The likely respondents are sponsors for new animal drug applications.

CVM estimates the burden for this information collection activity as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

| 21 CFR Section/FDA Form # | No. of Re-spondents | Annual Frequency per Response | Total Annual Re-sponses[2] | Hours per Re-sponse | Total Hours |
|---|---|---|---|---|---|
| 10.65/FDA Form 3489 | 25 | 6.24 | 156 | .08 | 12.5 |

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.
[2]Electronic submissions received between July 1, 2005 and June 30, 2006.

The number of respondents in Table 1 of this document are the number of sponsors registered to make electronic submissions (25). The number of total annual responses is based on a review of the actual number of such submissions made between July 1, 2005, and June 30, 2006. (156 x hours per response (.08) = 12.5 total hours.)

Dated: February 8, 2007.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. E7–2579 Filed 2–14–07; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 2007N–0016]**

### Sentinel Network To Promote Medical Product Safety; Public Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice; extension of registration period.

**SUMMARY:** The Food and Drug Administration (FDA) is extending to February 28, 2007, registration for the public meeting that will be held on March 7 and 8, 2007, regarding FDA's exploration and development of an integrated national network to link private sector and public sector postmarket safety efforts, creating a virtual, integrated, electronic ''Sentinel Network''. Such a network would integrate existing and planned efforts to collect, analyze, and disseminate medical product safety information to health care practitioners and patients at the point-of-care. It would be established through multiple, broad-based, public-private partnerships.

*Dates and Times*: The public meeting will be held on March 7 and 8, 2007, from 8 a.m. to 5 p.m.

*Location*: The public meeting will be held at the University System of Maryland Shady Grove Center, 8630 Gudelsky Dr., Rockville, MD 20850.

**ADDRESSES:** Submit written registration to Erik Mettler, Office of Policy (HF–11), Food and Drug Administration, 5600 Fishers Lane, rm. 14–101, Rockville, MD 20852, 301–827–3360, FAX: 301–594–6777. Submit electronic registration to *Erik.Mettler@fda.hhs.gov*.

*For Registration to Attend and/or Participate in the Meeting*: Seating at the meeting is limited. People interested in attending should e-mail or submit written registration to Erik Mettler (see **ADDRESSES**) by close of business on February 28, 2007. Registration is free and will be on a first-come, first-serve basis. All individuals wishing to speak during the open session of the meeting must indicate their intent, the question to be addressed, and provide an abstract of the presentation by February 28, 2007.

We have set aside a portion of the agenda (*http://www.fda.gov/oc/op/sentinel/*) for individuals who would like to make presentations at the meeting. If you wish to make an oral presentation during the open session of the meeting, you must state your intention on your registration submission (see **ADDRESSES**). To speak, submit your name, title, business affiliation, address, telephone number, fax number, and e-mail address. FDA will do its best to accommodate requests to speak. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and to request time for a joint presentation. FDA may require joint presentations by persons with common interests. FDA will determine the amount of time allotted to each presenter and the approximate time that each oral presentation is scheduled to begin.

If you require special accommodations due to a disability, please inform Erik Mettler (see **ADDRESSES**) when you register.

*For Information On the Meeting Contact*: Erik Mettler (see **ADDRESSES**).

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of January 18, 2007 (72 FR 2284), FDA announced a public meeting to explore opportunities to link private sector and public sector postmarket safety efforts to create a virtual, integrated, electronic ''Sentinel Network''. Such a network would integrate existing and planned efforts to collect, analyze, and disseminate medical product safety information to health care practitioners and patients at the point-of-care. It would be established through multiple, broad-based, public-private partnerships. We are seeking input on a number of specific questions, included in the original **Federal Register** notice, regarding opportunities for collaboration, the efficient use of information technology, and the collection and analysis of medical product safety information. A tentative agenda for the 2-day meeting has been posted on FDA's Web site and can be viewed at *http://www.fda.gov/oc/op/sentinel/*. We will post a final agenda by March 1, 2007, at the same Web site.

During the course of the registration period, FDA became aware that some registrations were not properly recorded. Because of this and because of the strong interest being expressed in this meeting, the agency has decided to reopen and extend the registration period to February 28, 2007.

In light of the fact that we have experienced some registration difficulties, individuals who have already registered can contact Erik Mettler (see **ADDRESSES**) if they wish to receive confirmation that their registration has been recorded.

Interested parties who have not yet registered may, on or before February 28, 2007, submit to Erik Mettler (see **ADDRESSES**) an electronic or written registration. Please include your name, title, business affiliation, address, telephone number, fax number, and e-mail address. Please also indicate if you wish to speak during the open public session or if you would like to register to make a presentation.

Dated: February 12, 2007.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 07–710 Filed 2–12–07; 2:59 pm]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 2007D–0040]**

### Draft Guidance for Industry on Developing Products for Weight Management; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Developing Products for Weight Management.'' FDA is interested in updating the September 1996 draft guidance entitled ''Guidance for the Clinical Evaluation of Weight-Control Drugs'' by incorporating the latest scientific and clinical advances in the drug development field of obesity, including recommendations on the development of products for weight management in pediatric patients and in patients with medication-induced weight gain, and recommendations on the development of combinations of weight-management products. This action is expected to provide clear and consistent advice to those in industry who are interested in developing weight-management products.

**DATES:** Submit written or electronic comments on the draft guidance by

April 16, 2007. General comments on agency guidance documents are welcome at any time.

**ADDRESSES:** Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Eric Colman, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 3340, Silver Spring, MD 20993–0002, 301–796–1190.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Developing Products for Weight Management,'' which revises the September 1996 draft guidance entitled ''Guidance for the Clinical Evaluation of Weight-Control Drugs.''

In 1996, following input from an expert advisory panel, FDA issued the September 1996 draft guidance. The September 1996 draft guidance provides general recommendations on the development of drugs for the long-term treatment of obesity. Important areas discussed in that guidance include patient-selection criteria, size and duration of phase 3 trials, and definitions of efficacy of a weight-control drug.

On January 26, 2004, FDA issued a notice in the **Federal Register** requesting public comment on the September 1996 draft guidance for the purpose of incorporating the latest scientific and clinical advances in weight-management drug development (69 FR 3588). In September 2004, FDA convened an advisory committee meeting to discuss the public comments received and to identify specific scientific, clinical, and regulatory issues that should be incorporated into an updated guidance document.

As a result, this revised draft guidance discusses several key areas of interest that are not covered in the September 1996 draft guidance. These areas include recommendations on the development of products for weight management in pediatric patients and in patients with medication-induced weight gain, and recommendations on the development of combinations of weight-management products.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on developing products for weight management. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

## II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

## III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: February 7, 2007.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. E7–2581 Filed 2–14–07; 8:45 am]

BILLING CODE 4160–01–S

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# DEPARTMENT OF HEALTH AND HUMAN SERVICES

## National Institutes of Health Proposed Collection; Proposed Reinstatement of Collection With Changes; Comment Request; Second National Survey To Evaluate the National Institutes of Health (NIH) Small Business Innovation Research (SBIR) Program

**SUMMARY:** 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 Office of the Director (OD), Office of Extramural Research (OER), Office of Extramural Programs (OEP), National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

### Proposed Collection

*Title:* The Second National Survey to Evaluate the Outcomes of the NIH SBIR Program. Type of Information Collection Request: Reinstatement with changes.

*Need and Use of the Information Collection:* The NIH, Office of the Director, (OD), Office of Extramural Research (OER), Office of Extramural Programs (OEP) will seek OMB approval to reinstate with changes a prior approved collection to conduct a second survey to evaluate the outcomes of the NIH Small Business Innovation Research (SBIR) Program. The SBIR Program, established by Congress in 1982 (Pub. Law No. 97–219), and reauthorized through September 30, 2008 (Pub. Law No. 106–554; 15 U.S.C. § 638), provides research support to small businesses for innovative technology. OMB approved the information collection associated with the initial National Survey to Evaluate the NIH SBIR Program on March 15, 2002 (OMB Control No. 0925–0499), expiration April 30, 2003. Through the first National Survey to Evaluate the NIH SBIR Program, NIH was able to obtain data demonstrating significant SBIR programmatic results. For example, seventy-three percent of the 768 awardee respondents reported commercializing new or improved products, processes, usages, and/or services in health-related fields. Other evidence of commercialization from the survey were that SBIR projects developed 48 drugs and medical devices receiving FDA approval; 281 awardees received additional funding from non-SBIR sources; and 436 awardees engaged in ongoing or completed marketing activities.

NIH will seek OMB approval to reinstate this information collection with changes with the primary objective to assess the extent to which the SBIR program goals continue to be met, particularly those dealing with the commercialization of research products, processes or services and the uncovering of new knowledge that will lead to better health for everyone. With outcome data, NIH will be able to more accurately assess the results of its large financial investment in funding innovative research conducted by small business concerns. Findings will help NIH to (1) Uunderstand if innovative projects supported through the NIH SBIR Program are being commercialized and if so, to classify the types of

products, processes or services that are derived through SBIR funding; (2) determine if other measures of success defined within the NIH mission are being achieved; and (3) enhance NIH's administration of the SBIR Program and the support that it provides to small business concerns. Overall, the NIH will use the evaluation results to assess the outcomes from NIH-supported SBIR awards. The evaluation results will provide OD with the information necessary to make quality improvements to the SBIR program and enhance program performance in generating significant outcomes. The Government Performance and Results Act of 1993 (GPRA) mandates that Federal programs improve their effectiveness and public accountability by focusing on results. The OMB developed the Program Assessment Rating Tool (PART) to monitor compliance with the GPRA and to rate federal programs for their effectiveness and ability to show results. It is anticipated that results from a second survey will assist NIH in demonstrating that it is meeting its GPRA goals for the NIH SBIR Program. Using an Internet survey OD will collect information Phase II SBIR awardees from fiscal years (FY) 2002 through 2006. The online survey will be implemented using Secure Socket Layer (SSL) encryption technology and password access. OD will use e-mail messages to advise awardees that they have been selected to participate in the survey.

*Frequency of Response:* One time.

*Affected Public:* Small business concerns supported by NIH through the SBIR Program.

*Type of Respondents:* For-profit small business concerns that received an NIH SBIR Phase II award from (FY 2002–2006). The annual reporting burden is as follows:

*Estimated Number of Respondents:* 1,000; *Estimated Number of Responses Per Respondent:* 1; *Averaged Burden Hours Per Response:* .5; and *Estimated Total Annual Burden Hours Requested:* 500. The annualized cost to the public is estimated at $37, 500. There are no Capital Costs, Operating Costs and/or Maintenance Costs to report.

| Type of respondents | Estimated number of respondents | Estimated number of responses per respondent | Average burden hours per response | Estimated total annual burden hours requested |
|---|---|---|---|---|
| For-profit small business concerns that have received an NIH SBIR Phase II award from (FY 2002–2006) | 1000 | 1 | 0.5 | 500 |

*Requests for Comments:* Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (2) The accuracy of the agency's estimate of the burden (including hours and cost) of the proposed information collection; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Ms. Jo Anne Goodnight, NIH SBIR/STTR Program Coordinator, Rockledge I Bldg., Room 3538, 6705 Rockledge Drive, Bethesda, MD 20892–7910, or call non-toll-free number (301) 435–2688 or E-mail your request, including your address, to: *jg128w@nih.gov*.

*Comments Due Date:* Comments regarding this information collection are best assured of having their full effect if received on or before April 13, 2007.

Dated: February 7, 2007.

**Jo Anne Goodnight,**

*Coordinator, Small Business Innovation Research/Small Business Technology Transfer Program Office of Extramural Programs, Office of Extramural Research, Office of the Director, National Institutes of Health.*

[FR Doc. E7–2636 Filed 2–14–07; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of Subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908), on September 30, 1997 (62 FR 51118), and on April 13, 2004 (69 FR 19644).

A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov*.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1035, 1 Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

**SUPPLEMENTARY INFORMATION:** The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Mandatory Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards that laboratories must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies. To become certified,

an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines dated April 13, 2004 (69 FR 19644), the following laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840 / 800–877–7016. (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770 / 888–290–1150.

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400.

Baptist Medical Center-Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783. (*Formerly:* Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.

Diagnostic Services, Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 239–561–8200 / 800–735–5416.

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281.

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310.

Dynacare Kasper Medical Laboratories,* 10150–102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2, 780–451–3702 / 800–661–9876.

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.

Gamma-Dynacare Medical Laboratories,* A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630.

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989 / 800–433–3823. (*Formerly:* Laboratory Specialists, Inc.).

Kroll Scientific Testing Laboratories, Inc., 450 Southlake Blvd., Richmond, VA 2323, 804–378–9130. (*Formerly:* Scientific Testing Laboratories, Inc.).

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986. (*Formerly:* Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984. (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 10788 Roselle St., San Diego, CA 92121, 800–882–7272. (Formerly: Poisonlab, Inc.).

Laboratory Corporation of America Holdings, 550 17th Ave., Suite 300, Seattle, WA 98122, 206–923–7020/800–898–0180. (*Formerly:* DrugProof, Division of Dynacare/Laboratory of Pathology, LLC; Laboratory of Pathology of Seattle, Inc.; DrugProof, Division of Laboratory of Pathology of Seattle, Inc.).

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339. (*Formerly:* LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845. (*Formerly:* Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734.

MAXXAM Analytics Inc.,* 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905–817–5700. (*Formerly:* NOVAMANN (Ontario), Inc.).

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

Meriter Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6225. (*Formerly:* General Medical Laboratories).

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774. (*Formerly:* University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Oregon Medical Laboratories, 123 International Way, Springfield, OR 97477, 541–341–8092.

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942. (*Formerly:* Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627.

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590/800–729–6432. (*Formerly:* SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750. (*Formerly:* Associated Pathologists Laboratories, Inc.).

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216. (*Formerly:* SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010. (*Formerly:* SmithKline Beecham Clinical Laboratories; International Toxicology Laboratories).

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 866–370–6699/818–989–2521. (*Formerly:* SmithKline Beecham Clinical Laboratories).

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227.

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x276.

Southwest Laboratories, 4645 E. Cotton Center Boulevard, Suite 177, Phoenix,

AZ 85040, 602–438–8507/800–279–0027.

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–364–7400. (*Formerly:* St. Lawrence Hospital & Healthcare System).

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260.

U.S. Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 13, 2004 (69 FR 19644). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

**Patricia Bransford,**

*Acting Director, Office of Program Services, SAMHSA.*

[FR Doc. E7–2632 Filed 2–14–07; 8:45 am]

BILLING CODE 4162–20–P

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

### Proposed Collection; Comment Request; Distribution of Continued Dumping and Subsidy Offset

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Procedures. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before April 16, 2007, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Ave., NW., Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Bureau of Customs and Border Protection, *Attn.:* Tracey Denning, Room 3.2.C., 1300 Pennsylvania Avenue, NW., Washington, DC 20229, Tel. (202) 344–1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

*Title:* Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers.

*OMB Number:* 1651–0086.

*Form Number:* N/A.

*Abstract:* The collection of information is required to implement the duty preference provisions of the Continued Dumping and Subsidy Offset Act of 2000, by prescribing the administrative procedures under which anti-dumping and counterveiling duties are assessed on imported products.

*Current Actions:* This submission is being submitted to extend the expiration date.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses.

*Estimated Number of Respondents:* 2000.

*Estimated Time per Respondent:* 1 hour.

*Estimated Total Annual Burden Hours:* 2000.

*Estimated Total Annualized Cost on the Public:* N/A.

Dated: February 8, 2007.

**Tracey Denning,**

*Agency Clearance Officer, Information Services Group.*

[FR Doc. E7–2655 Filed 2–14–07; 8:45 am]

BILLING CODE 9111–14–P

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

### Proposed Collection; Comment Request; Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Accreditation of Commercial Testing Laboratories and Approval of Commercial Gaugers. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before April 16, 2007, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Ave., NW., Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Bureau of Customs and Border Protection, *Attn.:* Tracey Denning, Room 3.2.C., 1300 Pennsylvania Avenue, NW., Washington, DC 20229, Tel. (202) 344–1429.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

*Title:* Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers.

*OMB Number:* 1651–0053.

*Form Number:* None.

*Abstract:* The Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers are used by individuals or businesses desiring CBP approval to measure bulk products or analyze importations. This recognition is required of businesses wishing to perform such work on imported merchandise.

*Estimated Number of Respondents:* 250.

*Estimated Time per Respondent:* 1.8 hours.

*Estimated Total Annual Burden Hours:* 450.

*Estimated Total Annualized Cost on the Public:* N/A.

Dated: February 8, 2007.

**Tracey Denning,**

*Agency Clearance Officer, Information Services Group.*

[FR Doc. E7–2656 Filed 2–14–07; 8:45 am]

BILLING CODE 9111–14–P

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

**[CBP Dec. 07–03]**

### Re-Accreditation and Re-Approval of Laboratory Service, Inc., as a Commercial Gauger and Laboratory

**AGENCY:** Bureau of Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of re-approval of Laboratory Service, Inc., of Seabrook, Texas, as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 151.13, Laboratory Service, Inc., 11731 Port Road, Seabrook, Texas 77586, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils, and to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 151.13. Anyone wishing to employ this entity to conduct laboratory analysis or gauger services should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific tests or gauger services this entity is accredited or approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.*

**DATES:** The re-approval of Laboratory Service, Inc., as a commercial gauger and laboratory became effective on February 18, 2005. The next triennial inspection date will be scheduled for February 2008.

**FOR FURTHER INFORMATION CONTACT:** Eugene J. Bondoc, Ph.D, or Randall Breaux, Laboratories and Scientific Services, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: February 9, 2007.

**Ira S. Reese,**

*Executive Director, Laboratories and Scientific Services.*

[FR Doc. E7–2650 Filed 2–14–07; 8:45 am]

BILLING CODE 9111–14–P

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

**[CBP Dec. 07–04]**

### Re-Accreditation and Re-Approval of Intertek Testing Services as a Commercial Gauger and Laboratory

**AGENCY:** Bureau of Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of re-approval of Intertek Testing Service/Caleb Brett of Tampa, Florida, as a commercial gauger and laboratory.

**SUMMARY:** Notice is hereby given that, pursuant to 19 CFR 151.12 and 151.13, Intertek Testing Service/Caleb Brett, 4951A East Adamo Drive, Suite 130, Tampa, Florida 33605, has been re-approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils, and to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 151.13. Anyone wishing to employ this entity to conduct laboratory analysis or gauger services should request and receive written assurances from the entity that it is accredited or approved by the Bureau of Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific tests or gauger services this entity is accredited or approved to perform may be directed to the Bureau of Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *http://www.cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/org_and_operations.xml.*

**DATES:** The re-approval of Intertek Testing Service/Caleb Brett as a commercial gauger and laboratory became effective on May 24, 2006. The next triennial inspection date will be scheduled for May 2009.

**FOR FURTHER INFORMATION CONTACT:** Eugene J. Bondoc, PhD, or Randall Breaux, Laboratories and Scientific Services, Bureau of Customs and Border

Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: February 9, 2007.

**Ira S. Reese,**

*Executive Director, Laboratories and Scientific Services.*

[FR Doc. E7–2651 Filed 2–14–07; 8:45 am]

BILLING CODE 9111–14–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[FEMA–3271–EM]**

### Colorado; Amendment No. 2 to Notice of an Emergency Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of an emergency declaration for the State of Colorado (FEMA–3271–EM), dated January 7, 2007, and related determinations.

**EFFECTIVE DATE:** February 7, 2007.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

**SUPPLEMENTARY INFORMATION:** The notice of an emergency declaration for the State of Colorado is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 7, 2007:

Las Animas County for emergency protective measures (Category B), including snow removal, under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**R. David Paulison,**

*Under Secretary for Federal Emergency Management and Director of FEMA.*

[FR Doc. E7–2646 Filed 2–14–07; 8:45 am]

BILLING CODE 9110–10–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[FEMA–3270–EM]**

### Colorado; Amendment No. 3 to Notice of an Emergency Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of an emergency declaration for the State of Colorado (FEMA–3270–EM), dated January 7, 2007, and related determinations.

**EFFECTIVE DATE:** February 7, 2007.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

**SUPPLEMENTARY INFORMATION:** The notice of an emergency declaration for the State of Colorado is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 7, 2007:

Larimer County for emergency protective measures (Category B), including snow removal, under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**R. David Paulison,**

*Under Secretary for Federal Emergency Management and Director of FEMA.*

[FR Doc. E7–2647 Filed 2–14–07; 8:45 am]

BILLING CODE 9110–10–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[FEMA–1679—DR]**

### Florida; Amendment No. 1 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–1679–DR), dated February 3, 2007, and related determinations.

**EFFECTIVE DATE:** February 7, 2007.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Florida is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 3, 2007:

Lake, Sumter, and Volusia Counties for Public Assistance Categories C-G (already designated for Individual Assistance and Public Assistance Categories A and B [debris removal and emergency protective measures], including direct Federal assistance.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**R. David Paulison,**

*Under Secretary for Federal Emergency Management and Director of FEMA.*

[FR Doc. E7–2642 Filed 2–14–07; 8:45 am]

BILLING CODE 9110–10–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[FEMA–1679–DR]**

### Florida; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Florida (FEMA–1679–DR), dated February 3, 2007, and related determinations.

**EFFECTIVE DATE:** February 3, 2007.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated February 3, 2007, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Florida resulting from severe storms and tornadoes during the period of February 1–2, 2007, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Florida.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate subject to completion of Preliminary Damage Assessments (PDAs), unless you determine that the incident is of such unusual severity and magnitude that PDAs are not required to determine the need for supplemental Federal assistance pursuant to 44 CFR 206.33(d). Direct Federal assistance is authorized.

Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Director, Department of Homeland Security, under Executive Order 12148, as amended, Jesse Munoz, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Florida to have been affected adversely by this declared major disaster:

Lake, Seminole, Sumter, and Volusia Counties for Individual Assistance. Lake, Seminole, Sumter, and Volusia Counties for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance program.

All counties within the State of Florida are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**R. David Paulison,**

*Under Secretary for Federal Emergency Management and Director of FEMA.*

[FR Doc. E7–2643 Filed 2–14–07; 8:45 am]

**BILLING CODE 9110–10–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[FEMA–1675–DR]**

### Kansas; Amendment No. 2 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Kansas (FEMA–1675–DR), dated January 7, 2007, and related determinations.

**EFFECTIVE DATE:** February 8, 2007.

**FOR FURTHER INFORMATION CONTACT:** Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Kansas is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 7, 2007:

Hamilton County for emergency protective measures (Category B), including snow removal, under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period (already designated for Public Assistance, including direct Federal assistance.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program–Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**R. David Paulison,**

*Under Secretary for Federal Emergency Management and Director of FEMA.*

[FR Doc. E7–2645 Filed 2–14–07; 8:45 am]

**BILLING CODE 9110–10–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:** 30-Day Notice of Information Collection Under Review: Form I–191, Application for Advance Permission To Return to Unrelinquished Domicile; OMB Control Number 1615–0016.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on November 30, 2006, at 71 FR 69214, allowing for a 60-day public comment period. USCIS did not receive any comments.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until March 19, 2007. This process is conducted in accordance with 5 CFR 1320.10.

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), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: 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*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov*.

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0016. 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 agencies 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 a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Advance Permission to Return to Unrelinquished Domicile.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–191. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected on this form will be used by U.S. Citizenship and Immigration Services to determine whether the applicant is eligible for discretionary relief under section 212(c) of the Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 300 responses at 15 minutes (.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 75 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument, please contact USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529, telephone 202–272–8377.

Dated: February 12, 2007.

**Stephen Tarragon,**

*Deputy Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. E7–2652 Filed 2–14–07; 8:45 am]

BILLING CODE 4410–10–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[DOCKET NO. FR–5124–N–03]**

### Notice of Proposed Information Collection for Public Comment for the Housing Choice Voucher Program: Application, Allowances for Tenant-Furnished Utilities, Inspections, Financial Reports, Request for Tenancy Approval, Housing Voucher, Portability Information, Housing Assistance Payments Contracts and Tenancy Addenda, Homeownership Obligations, Tenant Information for Owner, Voucher Transfers and Homeownership Contracts of Sale

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date:* April 16, 2007.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Aneita Waites, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410–5000; e-mail at *Aneita_L._Waites@hud.gov*.

**FOR FURTHER INFORMATION CONTACT:** Aneita Waites, (202) 402–4114, for copies of the proposed forms and other available documents. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (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; (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 collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

This Notice also Lists the Following Information:

*Title of Proposal:* Housing Choice Voucher (HCV) Program: Application, Allowances for Tenant-Furnished Utilities, Inspections, Financial Reports, Request for Tenancy Approval, Housing Voucher, Portability Information, Housing Assistance Payments (HAP) Contracts, Tenancy Addendum, Homeownership Obligations, Tenant Information for Owner, Voucher Transfers and Homeownership Contracts of Sale.

*OMB Control Number:* 2577–0169.

*Description of the Need for the Information and Proposed Use:* Public Housing Agencies (PHA) will prepare an application for funding which specifies the number of units requested, as well as the PHA's objectives and plans for administering the HCV program. The application is reviewed by the HUD Field Office and ranked according to the PHA's administrative capability, the need for housing assistance, and other factors specified in the Notice of Funding Availability (NOFA). The PHAs must establish a utility allowance schedule for all utilities and other services. Units must be inspected using HUD-prescribed forms to determine if the units meet the housing quality standards (HQS) of the HCV program. PHAs are also required to maintain financial reports in accordance with accepted accounting standards. The PHA is required to submit one financial document into an internet-based Voucher Management System four times a year. After the family is issued a HCV to search for a unit, the family must complete and submit to the PHA a Request for Tenancy Approval when it finds a unit which is suitable for its needs. Initial PHAs will use a standardized form to submit portability information to the receiving PHA who will also use the form for monthly portability billing. PHAs and Owners will enter into HAP Contacts each providing information on rents, payments, certifications, notifications, and Owner agreement in a form acceptable to the PHA. A tenancy addendum is included in the HAP contract as well as incorporated in the lease between the owner and the family. Families that participate in the Homeownership program will execute a statement regarding their responsibilities and execute contracts of sale including an additional contract of sale for new construction units. PHAs that wish to voluntarily transfer their HCV programs will notify HUD for approval and, once approved, all affected families and owners of the divested PHA.

*Agency Form Numbers:* HUD–52515, HUD–52667, HUD–52580, HUD–52580–A, HUD–52581–B, HUD–52646, HUD–52641, HUD–52641–A, HUD–52642, HUD–52642–A, HUD–52517, HUD–52649, HUD–52665

*Members of the Affected Public:* State and Local Governments, businesses or other for-profits.

*Estimation of the total number of hours needed to prepare the information collection including the number of respondents, frequency of response, and hours of response:* The Number of respondents (2450 PHAs + 245,000 families + 245,000 tenant-based owners) = 492,450 total respondents. Hours per response varies for each form varies from annually, quarterly and on-occasion. Total annual burden hours 1,069,670.

*Status of the Proposed Information Collection:* Revision of a currently approved collection with a change eliminating four of the five financial documents and adding burden hours in regard to transfers of HCV programs and contracts of sale under the homeownership option.

**Authority:** Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 7, 2007.

**Bessy Kong,**

*DeputyAssistant Secretary, Office of Policy, Program and Legislative Initiatives.*

[FR Doc. E7–2709 Filed 2–14–07; 8:45 am]

**BILLING CODE 4210–67–P**

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5121–N–08]**

## Notice of Proposed Information Collection: Comment Request; Certificate of Need for Health Facility and Assurance of Enforcement of State Standards

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date:* April 16, 2007.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410 or *Lillian_L_Deitzer@hud.gov*.

**FOR FURTHER INFORMATION CONTACT:** Joe Malloy, Deputy Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–1142 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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; (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 the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Certificate of Need of Health Facility and Assurance of Enforcement of State Standards.

*Omb Control Number, If Applicable:* 2502–0210.

*Description of the Need for the Information and Proposed Use:* The Department requires a State review of health care facilities insured under Section 232. Form HUD–2576–HF, Certificate of Need (CoN) is issued by the State agency with jurisdiction designated under Section 604(a)(1) or Section 1521 of the Public Health

Service Act. The State certification must provide evidence that (1) There is a need for the project; (2) There is a reasonable minimum standards in force for licensure and for operating the project in the State or other political subdivision in which the project is located; and (3) These standards will be enforced for the HUD-insured project.

*Agency Form Numbers, If Applicable:* HUD–2576–HF.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The number of burden hours is 10. The number of respondents is 50, the frequency of response is on occasion, and the burden hour per response is 12 minutes.

*Status of the Proposed Information Collection:*

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: February 9, 2007.

**Frank L. Davis,**

*General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.*

[FR Doc. E7–2711 Filed 2–14–07; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5121–N–09]**

### Notice of Proposed Information Collection: Comment Request; Multifamily Mortgagee's Application for Insurance Benefits

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date:* April 16, 2007.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410 or *Lillian_Deitzer@hud.gov*.

**FOR FURTHER INFORMATION CONTACT:** Victor L. Vacanti, Operating Accountant, Multifamily Claims Branch, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–3423 ext. 2808 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:** The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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; (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 the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Multifamily Mortgagee's Application for Insurance Benefits.

*OMB Control Number, if applicable:* 2502–0419.

*Description of the Need for the Information and Proposed Use:* A lender with an insured multifamily mortgage may pay an annual insurance premium to HUD. When the mortgage goes into default, the lender may elect to file with HUD a claim for insurance benefits. A requirement of the claims filing process is the submission of an application for insurance benefits, form HUD–2747. Regulation 12 U.S.C. 1713(g) and Title II, Section 207(g) of the National Housing Act provides that, ''Notwithstanding any other provision of this chapter, upon receipt, after September 2, 1964, of an application for insurance benefits on a mortgage insured under this chapter, the Secretary may terminate the mortgagee's obligation to pay premium charges on the mortgage.'' This provision is further spelled out in regulation 24 CFR Part 207—Subpart B, Contract Rights and Obligations at 24 CFR 207.525(d) and 24 CFR 207.258(c)(6). This information collection satisfies the preceding requirements.

*Agency Form Numbers, If Applicable:* HUD–2747.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The estimated total number of burden hours needed to prepare the information collection is 9; the number of respondents is 110 generating approximately 110 annual responses; the frequency of response is one claim per submission; and the estimated time needed to prepare the response is 5 minutes.

*Status of the Proposed Information Collection:* Extension of a currently approved collection.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: February 9, 2007.

**Frank L. Davis,**

*General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.*

[FR Doc. E7–2712 Filed 2–14–07; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5123–N–03]**

### Notice of Proposed Information Collection for Public Comment on Life After Transitional Housing: Family Follow-Up Interview

**AGENCY:** Office of Policy Development and Research, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comment Due Date:* April 16, 2007.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8234, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Paul B. Dornan, Department of Housing and Urban Development, Office of Policy Development and Research, 451 7th Street, SW., Room 8140, Washington, DC 20410; telephone (202) 708–0574,

extension 4486 (this is not a toll-free number). Copies of the proposed data collection instruments and other available documents may be obtained from Mr. Dornan.

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (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; (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 collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses).

This Notice also lists the following information:

*Title of Proposal:* Life after Transitional Housing: Family Follow-up Interview.

*Description of the Need for the Information and Proposed Use:* The Department of Housing and Urban Development has spent over $7 billion of public funds supporting Transitional Housing for homeless individuals and families. There is little research, however, that focuses on what the impact of that substantial public investment has meant in the lives of homeless people. This interview protocol is structured to find out what happens to formerly homeless families once they leave HUD-assisted Transitional Housing and what the impact of Transitional Housing is on the lives of those families. The Department originally submitted this survey for OMB review in June 2005. Completion of the participant follow-up survey by July 2007, the 12-month end-date for those participants who joined the study last, demands extension of OMB approval from April through July 2007.

*Members of Affected Public:* Members of the following group will be surveyed: The mother and one child of a sample of 200 families who have left HUD-assisted Transitional Housing.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* Approximately 200 families will be interviewed once upon leaving the Transitional Housing and three times thereafter, at 3-, 6- and 12-month intervals. Forty-five minutes was scheduled for the initial interview, and 30 minutes for each of the follow-up ones. The total respondent burden would be 100 hours.

*Status of the Proposed Information Collection:* Pending OMB approval.

**Authority:** Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 5, 2007.

**Darlene F. Williams,**

*Assistant Secretary for Policy, Development and Research.*

[FR Doc. E7–2714 Filed 2–14–07; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Endangered and Threatened Species Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability of permit applications; request for comments.

**SUMMARY:** The following applicant has applied for a permit to conduct certain activities with endangered species.

**DATES:** We must receive any written comments on or before March 19, 2007.

**ADDRESSES:** Regional Director, Attn: Peter Fasbender, U.S. Fish and Wildlife Service, Ecological Services, 1 Federal Drive, Fort Snelling, MN 55111–4056.

**FOR FURTHER INFORMATION CONTACT:** Mr. Peter Fasbender, (612) 713–5343.

**SUPPLEMENTARY INFORMATION:**

### Endangered Species

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act), with some exceptions, prohibits activities affecting endangered species unless authorized by a permit from the Service. Before issuing a permit, we invite public comment on it. Accordingly, we invite public comment on the following applicant's permit application for certain activities with endangered species authorized by section 10(a)(1)(A) of the Act and the regulations governing the taking of endangered species (50 CFR 17). Submit your written data, comments, or requests for copies of the complete applications to the address shown in **ADDRESSES**.

*Permit Number:* TE144832.

*Applicant:* Detroit Zoological Society, Royal Oak, MI.

The applicant requests a permit to take the Karner blue butterfly (*Lycaeides melissa samuelis*) in Michigan. The scientific research is aimed at enhancement of survival of the species in the wild.

### Public Comments

We solicit public review and comment on this permit application. Please refer to the respective permit number when you submit comments. We make all comments we receive, including names and addresses, part of the official administrative record, and may make them available to the public. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment, but you should be aware that we may be required to disclose your name and address pursuant to the Freedom of Information Act. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials we receive are available for public inspection, by appointment, during normal business hours at the address shown in the **ADDRESSES** section.

### National Environmental Policy Act (NEPA)

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the activities proposed by this permit are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: January 16, 2007.

**Wendi Weber,**

*Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.*

[FR Doc. E7–2630 Filed 2–14–07; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Sport Fishing and Boating Partnership Council

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** We, the Fish and Wildlife Service, announce a public meeting of the Sport Fishing and Boating Partnership Council (Council).

**DATES:** We will hold the meeting on Monday, March 5, 2007, from 1 p.m. to 5:30 p.m. (Eastern Time) and on Tuesday, March 6, 2007, from 8:30 a.m. to 1 p.m. Members of the public wishing to participate in the meeting must notify Douglas Hobbs by close of business on Friday, February 23, 2007, per instructions in the **SUPPLEMENTARY INFORMATION** section of this notice. Submit written statements for this meeting no later than February 23, 2007.

**ADDRESSES:** The meeting will be held at the Department of the Interior, Room 5160, 1849 C Street, NW., Washington, DC 20240; telephone (703) 358–2336.

**FOR FURTHER INFORMATION CONTACT:** Douglas Hobbs, Council Coordinator, 4401 North Fairfax Drive, Mailstop 3103–AEA, Arlington, Virginia 22203, (703) 358–2336 (phone), (703) 358–2548 (fax), or *doug_hobbs@fws.gov* (e-mail).

**SUPPLEMENTARY INFORMATION:** In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we give notice that the Sport Fishing and Boating Partnership Council will hold the meeting on March 5, 2007, from 1 p.m. to 5:30 p.m. (Eastern Time) and on March 6, 2007, from 8:30 a.m. to 1 p.m.

#### Background

The Council was formed in January 1993 by the Secretary of the Interior (Secretary) to advise the Secretary, through the Director, U.S. Fish and Wildlife Service, about nationally significant recreational boating, fishing and aquatic resource conservation issues. The Council represents the interests of the public and private sectors of the sport fishing and boating, and conservation communities and is organized to enhance partnerships among industry, constituency groups, and government. The 18-member Council, appointed by the Secretary, includes the Director of the Service and the president of the Association of Fish and Wildlife Agencies, who both serve in ex officio capacities. Other Council members are Directors from State agencies responsible for managing recreational fish and wildlife resources and individuals who represent the interests of saltwater and freshwater recreational fishing, recreational boating, the recreational fishing and boating industries, recreational fisheries resource conservation, aquatic resource outreach and education, and tourism. Background information on the Council is available at *http://www.fws.gov/sfbpc.*

The Council will convene to discuss: (1) The Council's continuing role in providing input to the Fish and Wildlife Service on the Service's strategic plan for its Fisheries Program; (2) The Council's work in addressing the issue of boating and fishing access; (3) The Council's role as a facilitator of discussions with Federal and State agencies and other sport fishing and boating interests concerning a variety of national boating and fisheries management issues; (4) The Council's work to assess the Clean Vessel Act Grant Program; (5) A possible Council role in communicating with partners and stakeholders about the Sport Fish Restoration and Boating Trust Fund; (6) A briefing on boating and fishing related issues that may arise in the 110th Congress; and (7) The Council's role in providing the Secretary with information about the implementation of the Strategic Plan for the National Outreach and Communications Program, authorized by the 1998 Sportfishing and Boating Safety Act, that is now being implemented by the Recreational Boating and Fishing Foundation, a private, nonprofit organization. The final agenda will be posted on the Internet at *http://www.fws.gov/sfbpc.*

#### Procedures for Public Input

We are reserving time on March 6, 2007, for oral public comments, and will assign speaking times on a first-come, first-served basis. Questions from the public will not be considered during this comment period, which is intended to allow interested members of the public to submit relevant written or oral information for the Council to consider in the course of its business. We are limiting each individual or group's oral presentation during the oral public comment period to 3 minutes per speaker, with no more than a total of one-half hour for all speakers. Speakers wishing to submit a full statement should do so at the meeting. Those speakers unable to be placed on the agenda, or if you are unable to attend in person, we invite you to also submit written statements.

To be placed on our public speaker list for this meeting, contact Douglas Hobbs, Council Coordinator, in writing (preferably via e-mail), by Friday, February 23, 2007, at the contact information under **FOR FURTHER INFORMATION CONTACT**. We must receive all written statements by February 23, 2007, so that the information may be made available to the Council for their consideration prior to this teleconference. Submit your written statements to the Council Coordinator in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Because entry to Federal buildings is restricted, all visitors are required to pre-register to be admitted. Anyone wishing to attend this meeting must register by close of business February 23, 2007, in order to attend. Please submit your name, time of arrival, e-mail address and phone number to Douglas Hobbs, and he will provide you with instructions for admittance. Mr. Hobbs' e-mail address is *doug_hobbs@fws.gov*, and his phone number is (703) 358–2336.

Summary minutes of the conference will be maintained by the Council Coordinator at 4401 N. Fairfax Drive, MS–3101–AEA, Arlington, VA 22203, and will be available for public inspection during regular business hours. You may purchase personal copies for the cost of duplication.

Dated: February 5, 2007.

**H. Dale Hall,**

*Director.*

[FR Doc. E7–2692 Filed 2–14–07; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[WO640 1020 PF 24 1A]**

### Call for Nominations for Resource Advisory Councils

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Resource Advisory Council Call for Nominations.

**SUMMARY:** The purpose of this notice is to request public nominations for the Bureau of Land Management (BLM) Resource Advisory Councils (RACs) that have member terms expiring this year. The RACs provide advice and recommendations to BLM on land use planning and management of the public lands within their geographic areas. The BLM will consider public nominations

for 45 days after the publication date of this notice.

**DATES:** Send all nominations to the appropriate BLM State Office by no later than *April 2, 2007*.

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION** for the locations to send your nominations.

**FOR FURTHER INFORMATION CONTACT:** Karen Slater, U.S. Department of the Interior, Bureau of Land Management, Intergovernmental Affairs, 1849 C Street, MS–LS–406, Washington, DC 20240; 202–452–0358.

**SUPPLEMENTARY INFORMATION:** The Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1730) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by BLM. Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory councils that are consistent with the requirements of the Federal Advisory Committee Act (FACA). As required by the FACA, RAC membership must be balanced and representative of the various interests concerned with the management of the public lands. The rules governing RACs are found at 43 CFR 1784.b. These include three categories:

*Category One*—Holders of Federal grazing permits and representatives of organizations associated with energy and mineral development, timber industry, transportation or rights-of-way, off-highway vehicle use, and commercial recreation;

*Category Two*—Representatives of nationally or regionally recognized environmental organizations, archaeological and historic organizations, dispersed recreation activities, and wild horse and burro organizations; and

*Category Three*—Representatives of State, county, or local elected office; representatives and employees of a State agency responsible for management of natural resources; representatives of Indian Tribes within or adjacent to the area for which the Council is organized; representatives of and employed as academicians involved in natural sciences; and the public-at-large.

Individuals may nominate themselves or others. Nominees must be residents of the State or States in which the RAC has jurisdiction. The BLM will evaluate nominees based on their education, training, and experience and their knowledge of the geographical area of the RAC. Nominees should demonstrate a commitment to collaborative resource decisionmaking. The following must accompany all nominations:

—letters of reference from represented interests or organizations,

—a completed background information nomination form, and

—any other information that speaks to the nominee's qualifications.

Simultaneous with this notice, BLM State Offices will issue press releases providing additional information for submitting nominations, with specifics about the number and categories of member positions available for each RAC in the State. Nominations for RACs should be sent to the appropriate BLM offices listed below:

**Alaska**

*Alaska RAC*

Danielle Allen, Alaska State Office, BLM, 222 West 7th Avenue, #13, Anchorage, Alaska 99513, (907) 271–3335

**Arizona**

*Arizona RAC*

Deborah Stevens, Arizona State Office, BLM, One North Central Avenue, Phoenix, Arizona 85004, (602) 417–9215

**California**

*Central California RAC*

David Christy, Folsom Field Office, BLM, 63 Natoma Street, Folsom, California 95630, (916) 985–4474

*Northeastern California RAC*

Jeff Fontana, Eagle Lake Field Office, BLM, 2950 Riverside Drive, Susanville, California 96130, (530) 257–0456

*Northwestern California RAC*

Jeff Fontana, Eagle Lake Field Office, BLM, 2950 Riverside Drive, Susanville, California 96130, (530) 257–0456

**Colorado**

*Front Range RAC*

Ken Smith, Royal Gorge Field Office, BLM, 3170 E. Main Street, Canon City, Colorado 81212, (719) 269–8553

*Northwest RAC*

David Boyd, Glenwood Springs Field Office, BLM, 50629 Highways 6 and 24, Glenwood Springs, Colorado 81601, (970) 947–2800

*Southwest RAC*

Melodie Lloyd, Grand Junction Field Office, BLM, 2815 H Road, Grand Junction, Colorado 81506, (970) 244–3097

**Idaho**

*Coeur d'Alene District RAC*

Stephanie Snook, Coeur d'Alene District Office, BLM, 3815 Schreiber Way, Coeur d'Alene, Idaho 83815, (208) 769–5004

*Idaho Falls District RAC*

David Howell, Idaho Falls District Office, BLM, 1405 Hollipark Drive, Idaho Falls, Idaho 83401, (208) 524–7559

*Boise District RAC*

MJ Byrne, Boise District Office, BLM, 3948 Development Avenue, Boise, Idaho 83705, (208) 384–3393

*Twin Falls District RAC*

Sky Buffat, Shosone Field Office, 400 West F Street, Shoshone, Idaho 83352, (208) 735–2068

**Montana and Dakotas**

*Eastern Montana RAC*

Mark Jacobsen, Miles City Field Office, BLM, 111 Garryowen, Miles City, Montana 59301, (406) 233–2831

*Central Montana RAC*

Craig Vlentie, Lewistown Field Office, BLM, 920 Northeast Maine, Lewistown, Montana 59457, (406) 538–1943

*Western Montana RAC*

Marilyn Krause, Butte Field Office, BLM, 106 North Parkmont, Butte, Montana 59701, (406) 533–7617

*Dakotas RAC*

Lonny Bagley, North Dakota Field Office, BLM, 99 23rd Avenue West, Suite A, Dickinson, North Dakota 58601, (701) 227–7703

**Nevada**

*Mojave-Southern RAC; Northeastern Great Basin RAC; Sierra Front Northwestern RAC*

Debra Kolkman, Nevada State Office, BLM, 1340 Financial Boulevard, Reno, Nevada 89502, (775) 289–1946

**New Mexico**

*New Mexico RAC*

Theresa Herrera, New Mexico State Office, BLM, 1474 Rodeo Road, P.O. Box 27115, Santa Fe, New Mexico 87505, (505) 438–7517

**Oregon/Washington**

*Eastern Washington RAC; John Day/Snake RAC; Southeast Oregon RAC*

Pam Robbins, Oregon State Office, BLM, 333 SW First Avenue, P.O. Box 2965,

Portland, Oregon 97208, (503) 808–6306

**Utah**

*Utah RAC*

Sherry Foot, Utah State Office, BLM, 440 West 200 South, Suite 500, P.O. Box 45155, Salt Lake City, Utah 84101, (801) 539–4195

**Jim Hughes,**

*Deputy Director.*

[FR Doc. E7–2597 Filed 2–14–07; 8:45 am]

BILLING CODE 4310–84–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[WY–040–1320–EL; WYW160394]**

### Notice of Availability of the Record of Decision for the Environmental Impact Statement for the Pit 14 Coal Lease-by-Application, Wyoming

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability of record of decision.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD) for the Pit 14 Coal Lease-by-Application.

**ADDRESSES:** The document is available electronically on the following Web site: *http://www.wy.blm.gov/nepa/rsfodocs/pit14/index.htm*. Paper copies of the ROD are also available at the following BLM office locations:

- Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming.
- Bureau of Land Management, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bob Janssen, Wyoming Coal Coordinator, (307) 775–6206 or Ms. Mavis Love, Land Law Examiner (307) 775–6258. Both Mr. Janssen's and Ms. Love's offices are located at the BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.

**SUPPLEMENTARY INFORMATION:** The ROD covered by this NOA is for the Pit 14 coal tract (WYW160394) and addresses leasing coal administered by the BLM Rock Springs Field Office contained within 1,399.48 acres of Federal surface and mineral estate in Sweetwater County, Wyoming. The BLM estimates that approximately 34.6 million tons of in-place coal reserves are present in the Upper Cretaceous Almond Formation within the project area. The BLM approves the proposed action as described in the Final EIS. A competitive lease sale will be announced in the **Federal Register** at a later date.

This decision is subject to appeal to the Interior Board of Land Appeals (IBLA) as provided in 43 CFR 4 within thirty (30) days from the date of publication of this NOA in the **Federal Register**. The ROD contains instructions for filing an appeal with the IBLA.

Dated: December 4, 2006.

**Donald Simpson,**

*Associate State Director.*

[FR Doc. E7–2591 Filed 2–14–07; 8:45 am]

BILLING CODE 4310–22–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[ES–960–1420–BJ–TRST; Group No. 162, Wisconsin]**

### Eastern States: Filing of Plat of Survey

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of filing of plat of survey; Wisconsin.

**SUMMARY:** The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM-Eastern States, Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153. *Attn:* Cadastral Survey.

**SUPPLEMENTARY INFORMATION:** This survey was requested by the Bureau of Indian Affairs.

The lands we surveyed are:

**Township 40 North, Range 8 West, of the 4th Principal Meridian in the State of Wisconsin**

The plat of survey represents the dependent resurvey of a portion of the North (Fourth Standard Parallel North), East, South, and West Boundaries and a portion of the subdivisional lines; a corrective dependent resurvey of a portion of the subdivisional lines, a corrective survey of the subdivision of section 33, including the reestablishment of a portion of the record meander line, the survey of a portion of the present shoreline of Gurno Lake, and the apportionment of the shoreline frontage to original lot 3, section 33; and the survey of the subdivision of sections 1–18, 20–29, 32, and 34–36 and was accepted December 11, 2006. We will place a copy of the plat we described in the open files. It will be available to the public as a matter of information.

If BLM receives a protest against this survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: February 9, 2007.

**Jerry L. Wahl,**

*Chief Cadastral Surveyor (acting).*

[FR Doc. E7–2633 Filed 2–14–07; 8:45 am]

BILLING CODE 4310–GJ–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. DR–CAFTA–103–016]**

### Probable Economic Effect of Modifications to DR–CAFTA Rules of Origin and Tariffs for Certain Apparel Goods of Costa Rica and the Dominican Republic

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of investigation.

**SUMMARY:** Following receipt of a request on January 24, 2007, from the United States Trade Representative (USTR), the Commission instituted investigation No. DR–CAFTA–103–016, Probable Economic Effect of Modifications to DR–CAFTA Rules of Origin and Tariffs for Certain Apparel Goods of Costa Rica and the Dominican Republic, for the purpose of providing advice on the probable economic effect of the modification of the rules of origin and tariff treatment as reflected in the annex to the request.

**DATES:**

March 2, 2007: Deadline for filing written submissions.

May 24, 2007: Transmittal of Commission report to USTR.

**ADDRESSES:** All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions, including requests to appear at the hearing, statements, and briefs, should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC

20436. 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:** Project Leaders Laura Rodriguez, Office of Industries (202–205–3499; *laura.rodriguez@usitc.gov* or George Serletis, Office of Industries (202–205–3315; *george.serletis@usitc.gov*). For information on legal aspects, contact William Gearhart of the Office of the General Counsel (202–205–3091; *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819; *margaret.olaughlin@usitc.gov*). General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). Hearing-impaired individuals may obtain information on this matter 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.

**SUPPLEMENTARY INFORMATION:** The USTR's letter states that the United States has recently signed letters of understanding with the Dominican Republic and Costa Rica concerning amendments to the Dominican Republic-Central America-United States Free Trade Agreement after the Agreement enters into force for those countries that would modify certain rules of origin in the Agreement as well as the tariff treatment of certain non-originating goods imported from parties to the agreement. Section 1634(b) of the Pension Protection Act of 2006 authorizes the President, subject to the layover requirements of section 104 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (19 U.S.C. 4014), to proclaim such modifications to the Harmonized Tariff Schedule of the United States as are necessary to implement amendments to the Agreement. One of the requirements set out in section 104 of the Act is that the President obtain advice regarding the proposed action from the Commission.

The Annex to the USTR's letter identified five modifications for which advice is requested. The list can be viewed at *http://www.usitc.gov/edis.htm*. As requested, the Commission will transmit its advice to the USTR by May 24, 2007, and will issue a public verison of its report shortly thereafter, with any confidential business information deleted.

*Written Submissions:* No public hearing is planned. However, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Submissions should be addressed to the Secretary to the Commission. To be assured of consideration by the Commission, written statements related to the investigation should be submitted to the Commission at the earliest practical date but no later than 5:15 p.m. on March 2, 2007. All written submissions must conform with section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 of the rules requires that a signed original (or copy designated as an original) and fourteen (14) copies of each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, in which the confidential business information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules do not authorize the filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf)*. Persons with questions regarding electronic filing should contact the Secretary (202–205–2000 or *edis@usitc.gov*).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''nonconfidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties.

The Commission may include some or all of the confidential business information submitted in the course of this investigation in the report it sends to the USTR. The USTR has directed that the Commission, after transmitting its report, publish a public version of its report, with any confidential business information deleted. Accordingly, any confidential business information received by the Commission in this investigation and used in preparing the report will not be published in the public version of the report in a manner that would reveal the operations of the firm supplying the information.

Issued: February 9, 2007.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E7–2604 Filed 2–14–07; 8:45 am]

**BILLING CODE 7020–02–P**

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## INTERNATIONAL TRADE COMMISSION

**[Inv. No. 337–TA–543]**

### In the Matter of Certain Baseband Processor Chips and Chipsets, Transmitter and Receiver (Radio) Chips, Power Control Chips, and Products Containing Same, Including Cellular Telephone Handsets; Notice of Commission Decision To Hold a Public Hearing on the Issues of Remedy and the Public Interest; Extension of the Target Date for Completion of the Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to hold a public hearing on the issues of remedy and the public interest, and has determined to extend the target date for completion of the above-captioned investigation by two (2) months to May 8, 2007.

**FOR FURTHER INFORMATION CONTACT:** Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3152. Copies of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be

viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

**SUPPLEMENTARY INFORMATION:** On June 21, 2005, the Commission instituted an investigation under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, based on a complaint filed by Broadcom Corporation of Irvine, California, alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain baseband processor chips and chipsets, transmitter and receiver (radio) chips, power control chips, and products containing same, including cellular telephone handsets by reason of infringement of certain claims of U.S. Patent Nos. 6,374,311; 6,714,983; 6,583,675; 5,682,379 (''the '379 patent''); and 6,359,872 (''the '872 patent''). 70 FR 35707 (June 21, 2005). The complainant named Qualcomm Incorporated of San Diego, California (''Qualcomm'') as the only respondent. The '379 patent and '872 patent have been terminated from this investigation.

On October 19, 2006, the presiding administrative law judge (''ALJ'') issued an Initial Determination (''ID'') on Violation of Section 337 and Recommended Determination (''RD'') on Remedy and Bond, finding a violation of section 337. The ID found a violation of section 337, and the RD recommended a limited exclusion order directed to baseband processor chips imported by Qualcomm. On December 8, 2006, the Commission issued a notice of its decision to review and upon review to modify in part the ALJ's final ID. The modification made by the Commission did not change the finding of violation. The Commission also requested the parties to the investigation, interested Government agencies, and any other interested persons to file written submissions on the issues of remedy, the public interest, and bonding.

On January 25, 2007, respondent Qualcomm moved, *inter alia,* for oral argument and hearing on the issues of remedy and the public interest. Complainant Broadcom opposed the motion on the ground that a hearing would delay the grant of relief in this investigation. No other party has responded to Qualcomm's motion. In view of the impact that an exclusion order covering downstream products may have on the public interest, the Commission has determined to hold a public hearing on the issues of remedy and the public interest. The Commission has also determined to extend the target date for completion of this investigation by two (2) months to May 8, 2007.

*Commission Hearing:* The Commission will hold the public hearing on March 21, 2007, and, if necessary, on March 22, 2007, in the Commission's main hearing room, 500 E Street, SW., Washington, DC 20436, beginning at 9:30 a.m. The hearing will be limited to the issues of remedy and the public interest. In particular, the Commission will hear presentations concerning the appropriate remedy, and the effect that such remedy would have upon the public interest.

Parties to the remedy stage of this investigation, Government agencies, public-interest groups, and interested members of the public may make oral presentations on the issues of remedy and the public interest. Oral presentations concerning the violation determinations already made in this investigation will not be permitted. Presentations need not be confined to the evidentiary record certified to the Commission by the ALJ, and may include the testimony of witnesses.

Presentations will likely be heard in the following order: complainant, respondent, intervenors, the Commission investigative attorney, Government agencies, public-interest groups, and interested members of the public. Given time constraints, Government agencies, public-interest groups, and interested members of the public may expect to be allotted no more than 10 minutes for their presentations. The time limits shall be exclusive of the time consumed by questioning by the Commission. Further details will be provided to the participants.

*Notice of Appearance:* Written requests to appear at the Commission hearing must be filed with the Office of the Secretary by February 28, 2007. Persons who wish to participate must provide their e-mail addresses as part of their contact information. Participants are also requested to provide a one-page synopsis of their oral presentations indicating what position they have on the issues to be addressed at the hearing. These documents will be placed in the public record.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.50).

Issued: February 9, 2007.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E7–2593 Filed 2–14–07; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Inv. No. 337–TA–592]**

## In the Matter of Certain NAND Flash Memory Devices and Components Thereof, and Products 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 January 9, 2007, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Toshiba Corporation of Japan. A letter supplementing the complaint was filed on January 19, 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 NAND flash memory devices and components thereof, and products containing same, by reason of infringement of U.S. Patent No. 6,703,658; U.S. Patent No. 6,424,588; and U.S. Patent No. 5,627,782. The complaint further alleges that an industry in the United States exists 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 and supplement, except for any confidential information contained therein, are 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:** Juan Cockburn, Esq., Office of Unfair Import

Investigations, U.S. International Trade Commission, telephone (202) 205–2572.

*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 February 5, 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 NAND flash memory devices or components thereof, or products containing same, by reason of infringement of one or more of claims 2 and 5 of U.S. Patent No. 6,703,658; claims 1–4 of U.S. Patent No. 6,424,588; and claims 46–49 of U.S. Patent No. 5,627,782, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Toshiba Corporation, 1–1 Shibaura 1-Chome, Minato-Ku, Tokyo 105–8001 Japan.

(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:

Hynix Semiconductor Inc., San 136–1, Ami-Ri Bubal-eub, 1 chon-si, Kyoungki-do, Korea.

Hynix Semiconductor America Inc., 3101 North First Street, San Jose, California 95134.

(c) The Commission investigative attorney, party to this investigation, is Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401–Q, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern 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: February 9, 2007.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E7–2605 Filed 2–14–07; 8:45 am]

**BILLING CODE 7020–02–P**

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## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–1110 (Preliminary)]**

## Sodium Hexametaphosphate (Shmp) From China

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of antidumping investigation and scheduling of a preliminary phase investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–1110 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of sodium hexametaphosphate (SHMP), provided for in subheading 2835.39.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by March 26, 2007. The Commission's views are due at Commerce within five business days thereafter, or by April 2, 2007.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**EFFECTIVE DATE:** February 8, 2007.

**FOR FURTHER INFORMATION CONTACT:** Debra Baker (202–205–3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (*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.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—This investigation is being instituted in response to a petition filed on February 8, 2007, by ICL Performance Products, LP (St. Louis, MO) and Innophos, Inc. (Cranbury, NJ).

*Participation in the investigation and public service list.*—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

*Limited disclosure of business proprietary information (BPI) under an*

*administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. § 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Conference.*—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on March 1, 2007, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Debra Baker (202–205–3180) not later than February 26, 2007, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

*Written submissions.*—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before March 6, 2007, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: February 12, 2007.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E7–2676 Filed 2–14–07; 8:45 am]

BILLING CODE 7020–02–P

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that on February 5, 2007, a proposed consent decree (''Consent Decree'') in the matter of *United States* vs. *Agrium U.S. Inc. and Royster-Clark, Inc.,* Civil Action No. 1–07–CV–0089, was lodged with the United States District Court for the Southern District of Ohio, Western Division.

The Consent Decree would resolve claims of the United States against Agrium U.S. Inc. and Royster-Clark, Inc. (collectively ''Defendants'') asserted in a complaint filed against the Defendants pursuant to Sections 113(b) and 167 of the Clean Air Act (''the Act''), 42 U.S.C. 7413(b) and 7477, for injunctive relief and the assessment of civil penalties for violations at a nitric acid production facility located at 10743 Brower Road, Hamilton County, North Bend, Ohio (''Facility'') of: The Prevention of Significant Deterioration (''PSD'') provisions of the Act, 42 U.S.C. 7470–92, and the PSD regulations incorporated into the federally approved and enforceable Ohio State Implementation Plan (''Ohio SIP''); the New Source Performance Standards (''NSPS'') of the Act, 42 U.S.C. 7411; the Title V Permit requirements of the Act, 42 U.S.C. 7661, *et seq.,* and Title V's implementing Federal (40 CFR Part 70) and Ohio regulations (OAC Chapter 3745–77); and the Ohio SIP Permit to Install requirements (OAC 3745–31–02(A)).

The proposed Consent Decree would require, among other things, that the Defendants: Install a selective catalytic reduction device and achieve specified emission limits to control the emissions of nitrogen oxides (''$NO_x$'') from the nitric acid plant at the Facility upon a schedule specified in the Consent Decree; install a continuous emissions monitoring system to measure $NO_x$ emissions at the Facility's nitric acid plant; apply for a permit to install from Ohio's permitting authorities incorporating various requirements of the Consent Decree and submit all necessary applications to revise the Facility's Clean Air Act Title V operating permit to incorporate certain requirements specified in the Consent Decree; and, pay a civil penalty to the United States in the amount of $750,000.00.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States* v. *Agrium U.S. Inc. and Royster-Clark, Inc.,* DOJ Ref. 90–5–2–1–08469.

The Consent Decree may be examined at the Office of the United States Attorney for the Southern District of Ohio, 221 East 4th Street, Suite 400, Cincinnati, Ohio 45202 and at the offices of the United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, Illinois 60604. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*, fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $7.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**William D. Brighton,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources, Division.*

[FR Doc. 07–688 Filed 2–14–07; 8:45 am]

BILLING CODE 4410–15–M

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Modified Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on January 24, 2007, a proposed Modified Consent Decree in *United States of America and Commonwealth of Virginia* v. *American Cyanamid Company, et al.,* Civil Action Nos. 90–0046–C, 91–0003–C, was lodged with the United States District Court for the Western District of Virginia.

In this action, the United States seeks a Third Modification of the Consent Decree that the United States lodged in 1991 to resolve the claims of the United States and the Commonwealth of Virginia under Sections 107 and 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9607 and 9606(a), at the U.S. Titanium Superfund Site located at the southern boundary of Nelson County, near the community of Piney River, Virginia (the ''Site''). This proposed Third Modification incorporates an EPA amendment to the remedy that requires institutional controls at the Site. Specifically, the modification requires American Cyanamid and its corporate successors, Wyeth Holdings Corporation, Cytec Industries Inc., and Piney Development Corporation to comply with certain land use restrictions and to record a Declaration of Restrictive Covenants documenting those restrictions and providing EPA with access to the Site. These restrictions prohibit or limit (1) Installation of any drinkingw water wells in areas where the groundwater is contaminated; (2) any new development at the Site that might interfere with the remedy; and (3) unauthorized earth moving activities where remedial actions have occurred.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to this proposed Modified Consent Decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, Attention: Nancy Flickinger, and should refer to *United States of America and Commonwealth of Virginia* v. *American Cyanamid Company, et al.*, Civil Action Nos. 90–0046–C, 91–0003–C, and should refer to D.J. Ref. 90–11–2–562.

The Modified Consent Decree may be examined at the Office of the United States Attorney for the Western District of Virginia, 310 First Street, SW., Room 906, Roanoke, Virginia 24011, and at U.S. EPA Region III's Office, 1650 Arch Street, Philadelphia, PA 19103. During the public comment period, the consent decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the proposed Modified Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547.

In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $3.25 (25 cents per page reproduction cost for a full copy) payable to the U.S. Treasury.

**Robert D. Brook,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 07–686 Filed 2–14–07; 8:45 am]

**BILLING CODE 4410–15–M**

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Stipulation Modifying Settlement Under the Clean Air Act

Notice is hereby given that on February 2, 2007, a proposed Stipulation and Order modifying the Consent Decree in *United States* v. *City of New York*, Civil No. 99–2207, has been lodged with the United States District Court for the Southern District of New York.

The original Consent Decree resolved the government's claims against New York City and the New York Department of Sanitation (collectively, the ''City'') for violations of the Clean Air Act arising from the City's improper disposal of appliances containing ozone-depleting substances. The proposed stipulation provides for the City to perform a Supplemental Environmental Project (''SEP'') comprising an urban forest project in lieu of two SEPs required under the original Consent Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Stipulation and Order. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *U.S.* v. *City of New York*, D.J. Ref. 90–5–2–1–06471.

The Stipulation and Order may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Fl., New York, NY 10007, and at the Region II Office of the U.S. Environmental Protection Agency, Region II Records Center, 290 Broadway, 17th Floor, New York, NY 10007–1866. During the public comment period, the Stipulation and Order may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Stipulation and Order may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*, fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Ronald G. Gluck,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 07–687 Filed 2–14–07; 8:45 am]

**BILLING CODE 4410—15—M**

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Pursuant to Department of Justice policy, notice is hereby given that on January 31, 2007, a proposed Consent Decree in *United States* v. *USX Corp., et al.*, Civil Action No. 98 C 6398 (N.D. Ill.), was lodged with the United States District Court for the Northern District of Illinois.

The Consent Decree concerns claims for natural resource damages under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675, relating to the Yeoman Creek Landfill Superfund Site in Waukegan, Illinois. Environmental cleanup work at the site is already being performed under a 1999 Consent Decree with several parties. This proposed Consent Decree would require the following parties to pay an additional $300,000 for natural resource damages

and for reimbursement of natural resource damage assessment costs incurred by government agencies: (1) Browning-Ferris Industries, LLC and BFI Waste Systems of North America, Inc.; (2) the City of Waukegan, Illinois; (3) Abbott Laboratories; (4) Waukegan Community School District No. 60; (5) The Goodyear Tire & Rubber Company; and (6) Invitrogen Corporation.

The Department of Justice will receive comments relating to the Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *USX Corp. et al.*, Civil Action No. 98 C 6389 (N.D. Ill.) and D.J. Ref. No. 90–11–2–1315/3.

The Consent Decree may be examined at the offices of the United States Attorney, 219 S. Dearborn Street, 5th Floor, Chicago, Illinois. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html*. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $8.00 (32 pages at 25 cents per page reproduction cost) payable to the U.S. Treasury.

**William D. Brighton,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 07–684 Filed 2–14–07; 8:45 am]

BILLING CODE 4410–15–M

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Notice is hereby given that on January 31, 2007, a proposed Consent Decree in United States of America v. Estate of David W. St. Germain, Jr. and Zeneca Inc., Civil Action No. 07–10181 was lodged with the United States District Court for the District of Massachusetts.

In this action the United States sought recovery of response costs incurred in connection with the cleanup of hazardous substances released at the St. Germain Drum Site, the Oak Street Drum Site, and the Route 44 Disposal Area Site (collectively, the ''Sites''), located in Taunton, Bristol County, Massachusetts, pursuant to Section 107 of the Comprehensive Environmental, Response, Compensation, and Liability Act, 42 U.S.C. 9607 (''CERCLA''). The Consent Decree provides that the Estate of David W. St. Germain, Jr. shall pay EPA all net proceeds from the sale of the St. Germain Site, up to the amount of EPA's Unreimbursed Response Costs, as defined in the Consent Decree. It is currently estimated that the net proceeds from the sale of the St. Germain Site will be approximately $400,000. The Consent Decree also provides that Zeneca will pay EPA a total of $2,562,260.49, plus interest from May 1, 2006, to resolve its liability at the Sites.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Estate of David W. St. Germain, Jr. and Zeneca Inc.,* D.J. Ref. 90–11–3–07658.

The Consent Decree may be examined at the Office of the United States Attorney, 1 Courthouse Way, John Joseph Moakley Courthouse, Suite 9200, Boston, MA 02210, and at U.S. EPA Region 1, One Congress Street, Suite 1100, Boston, MA 02210. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html*. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. in requesting a copy from the Consent Decree Library, please enclose a check in the amount of $7.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Ronald G. Gluck,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources, Division.*

[FR Doc. 07–685 Filed 2–14–07; 8:45 am]

BILLING CODE 4410–15–M

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

**ZRIN 1210–ZA12**

**[Application Number D–11404]**

### Proposed Amendment to Prohibited Transaction Exemption 2006–06 (PTE 2006–06) for Services Provided in Connection With the Termination of Abandoned Individual Account Plans

**AGENCY:** Employee Benefits Security Administration, U.S. Department of Labor.

**ACTION:** Notice of Proposed Amendment to PTE 2006–06.

**SUMMARY:** This document contains a notice of pendency before the Department of Labor (the Department) of a proposed amendment to PTE 2006–06, a prohibited transaction class exemption issued under the Employee Retirement Income Security Act of 1974 (ERISA). Among other things, PTE 2006–06 permits a ''qualified termination administrator'' (QTA) of an individual account plan that has been abandoned by its sponsoring employer to select itself to provide services to the plan in connection with the plan's termination, and to pay itself fees for those services. This amendment is being proposed in connection with the Department's amendment of regulations relating to the Termination of Abandoned Individual Account Plans at 29 CFR 2578.1, and the Safe Harbor for Distributions from Terminated Individual Account Plans at 29 CFR 2550.404a–3, which are being published simultaneously in this issue of the **Federal Register**. The Department's proposed amendment to PTE 2006–06 reflects changes, enacted as part of the Pension Protection Act of 2006, Pub. L. No. 109–280, to the Internal Revenue Code and would require, as a condition of relief under the class exemption, that benefits for a missing, designated nonspouse beneficiary be directly rolled over into an inherited individual retirement plan that fully complies with Code requirements. If adopted, the proposed amendment would affect plans, participants and beneficiaries of such

plans and certain persons engaging in such transactions.

**DATES:** Written comments and requests for a public hearing on the proposed amendment should be received by the Department on or before April 2, 2007.

**ADDRESSES:** Comments (preferably, at least three copies) should be addressed to the Office of Exemption Determinations, Employee Benefits Security Administration, Room N–5700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, *Attention:* PTE 2006–06 Amendment. Commenters are encouraged to submit responses electronically by e-mail to *e-OED@dol.gov*, or by using the Federal eRulemaking portal at *www.regulations.gov*. All responses will be available to the public at the Public Disclosure Room, Room N–1513, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, and online at *www.regulations.gov* and *www.dol.gov/ebsa*.

**FOR FURTHER INFORMATION CONTACT:** Brian Buyniski, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, (202) 693–8545 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of the pendency before the Department of a proposed amendment to PTE 2006–06 (71 FR 20856, April 21, 2006). PTE 2006–06, which was granted in connection with the Department's final regulation at 29 CFR 2578.1, relating to the Termination of Abandoned Individual Account Plans, the Department's final regulation at 29 CFR 2550.404a–3, relating to the Safe Harbor for Distributions from Terminated Individual Account Plans, and the Department's final regulation at 29 CFR 2520.103–13, relating to the Terminal Report for Abandoned Individual Account Plans, provides an exemption from the restrictions of section 406(a)(1)(A) through (D), section 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1986 (the Code), by reason of section 4975(c)(1)(A) through (E) of the Code.

The Department is proposing the amendment on its own motion pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[1] The Department seeks to amend the class exemption to reflect amendments to the Code that were adopted by enactment of the Pension Protection Act of 2006. Among other things, section 829 of the Pension Protection Act amended Code section 402(c) to permit the direct rollover of a deceased plan participant's benefit from an eligible retirement plan to an individual retirement plan established for the designated nonspouse beneficiary of such participant. In this connection, the Department is amending the regulatory safe harbor to require that a deceased participant's benefits be directly rolled over to an inherited individual retirement plan established to receive a distribution on behalf of a missing, designated nonspouse beneficiary. Similarly, the Department has determined to propose an amendment to PTE 2006–06 to ensure conformity with the amended Abandoned Plan Regulations.[2]

The Department interprets the term ''account'' (other than an individual retirement plan) in section I(b)(1)(ii) and the term ''other account'' in section I(b)(3) and (4) of PTE 2006–06 to include an ''inherited individual retirement plan'' as used in the amended regulatory safe harbor in the context of a distribution to a nonspouse beneficiary that does not qualify for small account treatment under the regulatory safe harbor. Consequently, the current exemption provides relief to a QTA that selects itself as the provider of an inherited individual retirement plan under the safe harbor. Nevertheless, to make clear that the exemption covers such a selection, the Department has published a proposed amendment to PTE 2006–06, and this issue of the **Federal Register** specifically addresses this matter.

## Executive Order 12866 Statement

Under Executive Order 12866, the Department must determine whether a regulatory action is ''significant'' and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Under section 3(f) of the Executive Order, a ''significant regulatory action'' is an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. The Department has determined that this action is not economically significant within the meaning of section 3(f)(1) of the Executive Order. However, the Office of Management and Budget (OMB) has determined that the action is significant within the meaning of section 3(f)(4) of the Executive Order, and the Department accordingly provides the following assessment of its potential costs and benefits.

These proposed amendments to PTE 2006–06 are being published concurrently with the issuance of an interim final rule that amends regulations pertaining to distributions from terminated plans to take advantage of recent changes to the Code. As explained earlier in the preamble, when finalized, the proposed amendments will make explicit the availability to a QTA of conditional exemptive relief to designate itself or an affiliate as the provider of an inherited individual retirement plan for a nonspouse beneficiary who has not returned a distribution election. Allowing QTAs to use their own or affiliated investment products to receive the distributions on behalf of nonspouse beneficiaries who have failed to make investment decisions facilitates the orderly termination and winding-up of a plan's affairs. Further, QTAs are not required to make use of proprietary or affiliated inherited individual retirement plans for the benefit of nonspouse beneficiaries. The Department continues to believe that the fee limitations, which are a condition of the exemption and applicable to distributions on behalf of nonspouse beneficiaries as well as other distributions, will encourage QTAs to make appropriate decisions regarding whether to use proprietary or affiliated products based on whether doing so will be in the best interests of participants and beneficiaries.

[1] Section 102 of the Reorganization Plan No. 4 of 1978 (5 U.S.C. App. 1 [1996]) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975 of the Code to the Secretary of Labor.

[2] See in this issue of the **Federal Register** Amendments to Safe Harbor for Distributions from Terminated Individual Account Plans and Termination of Abandoned Individual Account Plans to Require Inherited Individual Retirement Plans for Missing Nonspouse Beneficiaries.

In the Department's view, the proposed amendments would assist in effectuating the purposes underlying the regulations to which the exemption relates. Accordingly, the Department has taken these amendments into account in its assessment of the economic benefits and costs of the interim final rule amending the regulations pertaining to distributions from terminated plans, which is included in the preamble to the interim final rule published elsewhere in this issue of the **Federal Register**.

**Paperwork Reduction Act**

The information collections included in PTE 2006–06 are currently approved, together with information collections included in the safe harbor and termination of abandoned plans regulations, by the Office of Management and Budget (OMB) under OMB control number 1210–0127. This approval is currently scheduled to expire on April 30, 2008. The specific burden for the exemption includes a recordkeeping requirement for a QTA that terminates an abandoned plan and chooses to distribute the account balances of nonresponsive participants and beneficiaries into proprietary or affiliated individual retirement plans. These proposed amendments do not make any changes to the information collections of the exemption. Accordingly, the Department has not made a submission for OMB approval in connection with the proposed amendments.

**Background**

PTE 2006–06 is comprised of five sections. Section I describes the transactions that are covered by the exemption. Section II contains conditions for the provision of termination services and the receipt of fees. Section III contains the conditions for distributions. Section IV contains the general recordkeeping provisions imposed on the QTA, and section V contains definitions.

Section I(b) of the exemption provides relief from the restrictions of sections 406(a)(1)(A) through (D), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, for a QTA to use its authority in connection with the termination of an abandoned individual account plan to designate itself or an affiliate as provider of an individual retirement plan or other account to receive the account balance of a participant or beneficiary that does not provide direction as to the disposition of such assets.

Under PTE 2006–06, the other accounts currently permitted by the exemption include an account, other than an individual retirement account, as described in paragraph (d)(1)(ii) of the Safe Harbor Regulation, for a distribution made to a distributee other than a participant or spouse, and, for distributions of $1,000 or less, an interest-bearing, federally insured bank or savings association account, as described in section (d)(1)(iii) of the Safe Harbor Regulation. This provision of PTE 2006–06 is the subject of the proposed amendment contained in this notice.

Section I(b) of the class exemption further permits the QTA to make the initial investment of the distributed proceeds in a proprietary investment product, receive fees in connection with the establishment or maintenance of the individual retirement plan or other account, and receive investment fees as a result of the investment of the individual retirement plan or other account's assets in a proprietary investment product in which the QTA or an affiliate has an interest.

**Discussion of the Proposed Amendment**

Section 829 of the Pension Protection Act amended section 402(c) of the Code to permit the direct rollover of a deceased participant's benefit from an eligible retirement plan to an individual retirement plan established on behalf of a designated nonspouse beneficiary.[3] These rollover distributions would not trigger immediate tax consequences and mandatory tax withholding for the nonspouse beneficiary.

In light of the Pension Protection Act's favorable changes to the Code allowing a rollover distribution on behalf of a nonspouse beneficiary into an inherited individual retirement plan with the resulting deferral of income tax consequences, the Department is amending the class exemption to require that a deceased participant's benefit be directly rolled over to an inherited individual retirement plan established to receive the distribution on behalf of a missing, designated nonspouse beneficiary.

**General Information**

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of ERISA and section 4975(c)(2) of the Code does not relieve a fiduciary, or other party in interest or disqualified person with respect to a plan, from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA which require, among other things, that a fiduciary act prudently and discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan. Additionally, the fact that a transaction is the subject of an exemption does not affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act or section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of ERISA and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(4) If granted, the proposed amendment is applicable to a particular transaction only if the transaction satisfies the conditions specified in the exemption; and

(5) The proposed amendment, if granted, will be supplemental to, and not in derogation of, any other provisions of ERISA and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

**Written Comments and Hearing Request**

The Department invites all interested persons to submit written comments or requests for a public hearing on the proposed amendment to the address and within the time period set forth above. Commenters can also submit responses electronically by e-mail to *e-OED@dol.gov*. All comments received will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for

[3] Section 829 of the Pension Protection Act requires that the individual retirement plan established on behalf of a nonspouse beneficiary must be treated as an inherited individual retirement plan within the meaning of Code § 408(d)(3)(C) and must be subject to the applicable mandatory distribution requirement of Code § 401(a)(9)(B).

public inspection at the above address and on the *www.regulations.gov web portal*.

**Proposed Amendment**

Under section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR 2570, Subpart B (55 FR 32836, 32847, August 10, 1990), the Department proposes to amend PTE 2006–06 as set forth below:

**Exemption * * ***

**I. Covered Transactions * * ***

(b) * * *

(1) Designate itself or an affiliate as: (i) Provider of an individual retirement plan; (ii) provider, in the case of a distribution on behalf of a designated beneficiary (as defined by section 401(a)(9)(E) of the Code) who is not the surviving spouse of the deceased participant, of an inherited individual retirement plan (within the meaning of section 402(c)(11) of the Code) established to receive the distribution on behalf of the nonspouse beneficiary under the circumstances described in section (d)(1)(ii) of the Safe Harbor Regulation for Terminated Plans (29 CFR section 2550.404a–3) (Safe Harbor Regulation); or (iii) provider of an interest bearing, federally insured bank or savings association account maintained in the name of the participant or beneficiary, in the case of a distribution described in section (d)(1)(iii) of the Safe Harbor Regulation, for the distribution of the account balance of the participant or beneficiary of the abandoned individual account plan who does not provide direction as to the disposition of such assets;

**V. Definitions * * ***

(b) The term ''individual retirement plan'' means an individual retirement plan described in section 7701(a)(37) of the Code. For purposes of section III of this exemption, the term ''individual retirement plan'' shall also include an inherited individual retirement plan (within the meaning of section 402(c)(11) of the Code) established to receive a distribution on behalf of a nonspouse beneficiary. Notwithstanding the foregoing, the term individual retirement plan shall not include an individual retirement plan which is an employee benefit plan covered by Title I of ERISA.

Signed at Washington, DC, this 5th day of February 2007.

**Ivan L. Strasfeld,**

*Director, Office of Exemption Determinations.*

[FR Doc. E7–2606 Filed 2–14–07; 8:45 am]

**BILLING CODE 4150–29–P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2007–0008]**

### Standard on Formaldehyde; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Request for public comment.

**SUMMARY:** OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements contained in its Formaldehyde Standard (29 CFR 1910.1048). The Standard protects employees from the adverse health effects that may result from occupational exposure to Formaldehyde, including an itchy, runny, and stuffy nose; a dry or sore throat; eye irritation; headache; and cancer of the lung, buccal cavity, and pharynx.

**DATES:** Comments must be submitted (postmarked, sent, or received) by April 16, 2007.

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

*Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

*Facsimile:* If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

*Mail, hand delivery, express mail, messenger, or courier service:* When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2007–0008, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., e.t.

*Instructions:* All submissions must include the Agency name and OSHA docket number for this ICR (OSHA Docket No. OSHA–2007–0008). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

*Docket:* To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Todd Owen at the address below to obtain a copy of the ICR.

**FOR FURTHER INFORMATION CONTACT:** Jamaa Hill or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The principal paperwork provisions of the Formaldehyde Standard require employers to perform exposure monitoring to determine employees' exposure to Formaldehyde, notify employees of their Formaldehyde exposures, provide medical surveillance to employees, provide examining physicians with specific information, ensure that employees receive a copy of their medical examination results, maintain employees' exposure

monitoring and medical records for specific periods, and provide access to these records by OSHA, the National Institute for Occupational Safety and Health, the affected employees, and their authorized representatives.

**II. Special Issues for Comment**

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

**III. Proposed Actions**

OSHA is requesting OMB to extend its approval of the information collection requirements contained in the Formaldehyde Standard, including an increase of 28,664 burden hours. The Agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB.

*Type of Review:* Extension of currently approved information collection requirement.

*Title:* Formaldehyde Standard (29 CFR 1910.1048).

*OMB Number:* 1218–0145.

*Affected Public:* Business or other for-profits.

*Number of Respondents:* 112,638.

*Frequency:* On occasion, semi-annually, annually.

*Total Responses:* 1,903,049.

*Average Time per Response:* Time per response ranges from 5 minutes for employers to maintain exposure monitoring and medical records for each employee to 1 hour for employees to receive a medical examination.

*Estimated Total Burden Hours:* 519,076 hours.

*Estimated Cost (Operation and Maintenance):* $55,325,688.

**IV. Public Participation-Submission of Comments on This Notice and Internet Access to Comments and Submissions**

You may submit comments in response to this document as follows: (1) electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for this ICR (OSHA Docket No. OSHA–2007–0008). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled ''Addresses''). The additional materials must clearly identify your electronic comments by your name, date, and docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the internet to locate docket submissions.

Electronic copies of this **Federal Register** document are available at *http://regulations.gov.* This document, as well as news releases and other relevant information, also are available at OSHA's Web page at *http://www.osha.gov.*

**V. Authority and Signature**

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on February 12, 2007.

**Edwin G. Foulke, Jr.**

*Assistant Secretary of Labor.*

[FR Doc. E7–2665 Filed 2–14–07; 8:45 am]

BILLING CODE 4510–26–P

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2007–0009]**

### Regulation on Access to Employee Exposure and Medical Records; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Request for public comment.

**SUMMARY:** OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements contained in its Regulation on Access to Employee Exposure and Medical Records (29 CFR 1910.1020).

**DATES:** Comments must be submitted (postmarked, sent or received) by April 16, 2007.

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

*Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

*Fax:* If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

*Mail, hand delivery, express mail, messenger, or courier service:* You must submit three copies of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2007–0009, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., e.t.

*Instructions:* All submissions must include the Agency name and OSHA docket number for this information collection request (ICR) (OSHA Docket No. OSHA–2007–0009). All comments, including any personal information you provide, are placed in the public docket without change and may be made

available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Todd Owen at the address below to obtain a copy of the ICR.

**FOR FURTHER INFORMATION CONTACT:** Jamaa Hill or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection requirements by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

Under the authority granted by the Act, OSHA published a health regulation governing access to employee exposure monitoring data and medical records. This regulation does not require employers to collect any information or to establish any new systems of records. Rather, it requires that employers provide employees, their designated representatives, and OSHA with access to employee exposure monitoring and medical records, and any analyses resulting from these records. In this regard, the regulation specifies requirements for record access, record retention, employee information, trade secret management, and record transfer. Accordingly, the Agency attributes the burden hours and costs associated with exposure monitoring and measurement, medical surveillance, and the other activities required to generate the data governed by the regulation to the health standards that specify these activities; therefore, OSHA did not include these burden hours and costs in this ICR.

Access to exposure and medical information enables employees and their designated representatives to become directly involved in identifying and controlling occupational health hazards, as well as managing and preventing occupationally-related health impairment and disease. Providing the Agency with access to the records permits it to ascertain whether or not employers are complying with the regulation, as well as the recordkeeping requirements of its other health standards; therefore, OSHA access provides additional assurance that employees and their designated representatives are able to obtain the data they need to conduct their analyses.

## II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions to protect employees, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

## III. Proposed Actions

OSHA is requesting that OMB extend its approval of the collection of information requirements specified by the Regulation on Access to Employee Exposure and Medical Records (29 CFR 1910.1020). This request includes an increase of 158,880 burden hours. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information collection requirements.

*Type of Review:* Extension of currently approved information collection requirements.

*Title:* Access to Employee Exposure and Medical Records (29 CFR 1910.1020).

*OMB Number:* 1218–0065.

*Affected Public:* Business or other for-profits; Federal government; State, local, or tribal governments.

*Number of Respondents:* 734,820.

*Frequency of Recordkeeping:* On occasion.

*Average Time per Response:* Varies from five minutes (.08 hour) for employers to provide OSHA with access to records to 10 minutes (.17 hour) to maintain employee records.

*Total Annual Hours Requested:* 720,187.

*Estimated Cost (Operation and Maintenance):* $0.

## IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document (1) electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (OSHA Docket No. OSHA–2007–0009). You may supplement electronic submissions by uploading document files electronically. If, instead, you wish to mail additional materials in reference to an electronic or fax submission, you must submit them to the OSHA Docket Office (see **ADDRESSES** section). The additional materials must clearly identify your electronic comments by your name, date, and docket number so OSHA can attach them to your comments.

Because of security-related procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in

the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through *http://www.regulations.gov.* All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

Electronic copies of this **Federal Register** document are available at *http://regulations.gov.* This document, as well as news releases and other relevant information, also are available at OSHA's webpage at *http://www.osha.gov.*

**V. Authority and Signature**

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on February 12, 2007.

**Edwin G. Foulke, Jr.,**

*Assistant Secretary of Labor.*

[FR Doc. E7–2673 Filed 2–14–07; 8:45 am]

**BILLING CODE 4510–26–P**

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2007–0010]**

### Federal Advisory Council on Occupational Safety and Health

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Announcement of meeting.

**SUMMARY:** The Federal Advisory Council on Occupational Safety and Health (FACOSH) will meet March 1, 2007, in Washington, DC.

**DATES:**

*FACOSH meeting:* FACOSH will meet from 10 a.m. to 4 p.m., Thursday, March 1, 2007.

*Submission of comments and requests to speak:* Comments and requests to speak at the FACOSH meeting must be received by February 22, 2007.

**ADDRESSES:**

*FACOSH meeting:* FACOSH will meet in Rooms N–3437 A/B/C, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

*Submission of comments and requests to speak:* Comments and requests to speak at the FACOSH meeting, identified by OSHA Docket No. 2007–0010, may be submitted by any of the following methods:

*Electronically:* You may submit materials, including attachments, electronically at: *http://www.regulations.gov*, the Federal eRulemaking Portal. Follow the online instructions for making submissions.

*Facsimile:* If your submission, including attachments, is not longer than 10 pages, you may fax it to the OSHA Docket Office at (202) 693–1648.

*Mail, express delivery, hand delivery, messenger or courier service:* Submit three copies of your submissions to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). Deliveries (hand, express mail, messenger and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., e.t.

*Instructions:* All submissions must include the Agency name and docket number for this **Federal Register** notice (Docket No. OSHA–2007–0010). Submissions in response to this **Federal Register** notice, including personal information provided, will be posted without change at: *http://www.regulations.gov*. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birth dates. Because of security-related procedures, submissions by regular mail may result in a significant delay in their receipt. Please contact the OSHA Docket Office, at the address above, for information about security procedures for making submissions by hand delivery, express delivery, and messenger or courier service. For additional information on submitting comments and requests to speak, see the **SUPPLEMENTARY INFORMATION** section below.

*Docket:* To read or download submissions, go to *http://www.regulations.gov*. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some documents (e.g., copyrighted material) are not publicly available to read or download through *http://www.regulations.gov*. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office at the address above.

**FOR FURTHER INFORMATION CONTACT:** For general information: Diane Brayden, Director, OSHA, Office of Federal Agency Programs, U.S. Department of Labor, Room N–3622, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2122; fax (202) 693–1685; e-mail *ofap@dol.gov*. For special accommodations for the FACOSH meeting: Veneta Chatmon, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

**SUPPLEMENTARY INFORMATION:** FACOSH will meet Thursday, March 1, 2007, in Washington, DC. All FACOSH meetings are open to the public.

FACOSH is authorized by section 19 of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 668), 5 U.S.C. 7902, and Executive Order 12196 to advise the Secretary of Labor on all matters relating to the occupational safety and health of Federal employees (Ex. 2). This includes providing advice on how to reduce and keep to a minimum the number of injuries and illnesses in the Federal workforce and how to encourage the establishment and maintenance of effective occupational safety and health programs in each Federal Department and Agency (Ex. 3).

The tentative agenda for the FACOSH meeting includes:

- Safety, Health and Return-to-Employment (SHARE) Initiative,
- Recordkeeping,
- Training,
- Field Federal Safety and Health Councils, and
- Facility Safety and Health Design.

FACOSH meetings are transcribed and detailed minutes of the meetings are prepared. Meeting transcripts and minutes are included in the official record of FACOSH meetings.

Interested parties may submit a request to make an oral presentation to FACOSH by one of the methods listed in the **ADDRESSES** section above. The request must state the amount of time requested to speak, the interest represented (e.g., business or organization name), if any, and a brief outline of the presentation. Requests to address FACOSH may be granted as time permits and at the discretion of the FACOSH chair.

Interested parties also may submit comments, including data and other information, using any of the methods listed in the **ADDRESSES** section above. OSHA will provide all submissions to FACOSH members.

Individuals who need special accommodations and wish to attend the

FACOSH meeting should contact Veneta Chatmon, at the address above, at least seven days before the meeting.

*Public Participation*—Submissions and Access to Official Meeting Record:

You may submit comments and requests to speak (1) electronically, (2) by facsimile, or (3) by hard copy. All submissions, including attachments and other materials, must identify the Agency name and the OSHA docket number for this notice (Docket No. OSHA–2007–0010). You may supplement electronic submissions by uploading documents electronically. If, instead, you wish to submit hard copies of supplementary documents, you must submit three copies to the OSHA Docket Office using the instructions in the **ADDRESSES** section above. The additional materials must clearly identify your electronic submission by name, date and docket number.

Because of security-related procedures, the use of regular mail may cause a significant delay in the receipt of submissions. For information about security procedures concerning the delivery of submissions by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Meeting transcripts and minutes as well as submissions in response to this **Federal Register** notice are included in the official record of the FACOSH meeting (Docket No. OSHA–2007–0010). Submissions are posted without change at: *http://www.regulations.gov*. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birth dates. Although all submissions are listed in the *http://www.regulations.gov* index, some documents (e.g., copyrighted material) are not publicly available to read or download through *http://www.regulations.gov*. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Exhibits referenced in this **Federal Register** notice are included in Docket No. OSHA–2007–0010, which is the ''Docket ID'' number in *http://www.regulations.gov*. Exhibit numbers are listed at the beginning of the title of the specific document in the *http://www.regulations.gov* index (see ''Document Title'' column).

Information on using the *http://www.regulations.gov* Website to make submissions and to access the docket and exhibits is available at the Website's User Tips link. Contact the OSHA Docket Office for information about materials not available through the Website and for assistance in using the Internet to locate submissions and other documents in the docket. Electronic copies of this **Federal Register** notice are available at: *http://www.regulations.gov*. This notice, as well as news releases and other relevant information, is also available at OSHA's Webpage at: *http://www.osha.gov*.

*Authority and Signature:* Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by section 19 of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 668), 5 U.S.C. 7902, section 1–5 of Executive Order 12196, the Federal Advisory Committee Act (5 U.S.C. App.2) and Secretary of Labor's Order No. 2–2002 (67 FR 65008).

Signed at Washington, DC, this 12th day of February, 2007.

**Edwin G. Foulke, Jr.,**

*Assistant Secretary of Labor.*

[FR Doc. E7–2674 Filed 2–14–07; 8:45 am]

BILLING CODE 4510–26–P

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2006–0050]**

### Nationally Recognized Testing Laboratories; Revised Fee Schedule

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice.

**SUMMARY:** This notice provides the revised schedule of fees to be charged by the Occupational Safety and Health Administration (OSHA) to Nationally Recognized Testing Laboratories (NRTLs). OSHA charges fees for specific types of services it provides to NRTLs. The fees charged to NRTLs first went into effect on October 1, 2000.

**DATES:** The Fee Schedule will become effective on February 15, 2007.

**FOR FURTHER INFORMATION CONTACT:** MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3655, Washington, DC 20210, or phone (202) 693–2110. Our Web page includes information about the NRTL Program (see *http://www.osha.gov* and select ''N'' in the site index).

**SUPPLEMENTARY INFORMATION:**

**I. Notice and Introduction**

The Occupational Safety and Health Administration (OSHA) hereby gives notice that it has revised the fees that the Agency charges for the services it provides to Nationally Recognized Testing Laboratories (NRTLs). OSHA is taking this action as a result of its process for annually reviewing the fees, as provided under 29 CFR 1910.7(f). This review showed that the costs of providing the services covered by the fees had changed sufficiently to warrant adjustments to the fee schedule, which had been in effect since January 2002. The notice to propose the revised fees was published in the **Federal Register** on December 20, 2006 (71 FR 76365). That notice requested submission of comments by January 4, 2007. No comment was received. The notice also stated that the fees would go into effect on February 5, 2007; OSHA, however, has changed the effective date of the fee increase. As set forth above, the new fee schedule is effective February 15, 2007.

You may obtain or review documents related to the establishment of the fees by contacting the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. Docket No. OSHA–2006–0050 (formerly, NRTL95–F–1), contains all materials in the record concerning OSHA's NRTL Program fees.

The fee adjustments described in this notice are based on the current approach for calculating fees, which is the same approach OSHA used in developing the first fee schedule (effective October 1, 2000). OSHA is also in the process of developing a new approach to calculating fees that would more accurately recoup the total costs of the services OSHA provides to NRTLs. The Agency will be proposing this new approach, and seeking comments on it, in a **Federal Register** notice to be published at a later date.

**II. Background**

Many of OSHA's safety standards require that equipment or products used in the workplace be tested and certified to help ensure they can be used safely. *See, e.g.*, 29 CFR 1910, Subpart S. In general, this testing and certification must be performed by a Nationally Recognized Testing Laboratory (NRTL). In order to ensure that the testing and certification is done appropriately, OSHA implemented the NRTL Program. The NRTL Program establishes the criteria that an organization must meet in order to be and remain recognized as an NRTL.

The NRTL Program requirements are set forth under 29 CFR 1910.7,

''Definition and requirements for a nationally recognized testing laboratory.'' To be recognized by OSHA, an organization must: (1) Have the appropriate capability to test, evaluate, and approve products to assure their safe use in the workplace; (2) be completely independent of the manufacturers, vendors, and major users of the products for which OSHA requires certification; (3) have internal programs that ensure proper control of the testing and certification process; and (4) have effective reporting and complaint handling procedures.

OSHA requires NRTL applicants (*i.e.*, organizations seeking initial recognition as NRTLs) to provide detailed and comprehensive information about their programs, processes, and procedures in writing when they apply. OSHA reviews the written information and conducts an on-site assessment to determine whether the organization meets the requirements of 29 CFR 1910.7. OSHA uses a similar process when an NRTL (*i.e.*, an organization already recognized) applies for expansion or renewal of its recognition. In addition, the Agency conducts annual audits to ensure that the recognized laboratories maintain their programs and continue to meet the recognition requirements. Currently, there are 18 NRTLs operating over 50 recognized sites in the U.S., Canada, Europe, and the Far East.

## III. Program Costs and Fee Calculation

To understand the adjustments we have made to the fee schedule, Section A discusses the derivation of the hourly rate we used to assess the fees. Section B discusses changes we made to the estimate of activity times and briefly describes new chargeable activities for the services to NRTLs. Section C details new activity costs.

### *A. Derivation of Hourly Rate (ECR)*

In preparing the fee schedule presented in this notice, OSHA has updated its calculation of the total resources that it has committed to the NRTL Program overall and has then computed the costs that are involved solely with the application approval and the periodic review (*i.e.*, audit) functions.

OSHA calculates the fees for these services by multiplying an equivalent average direct staff cost per hour rate (ECR) by the time it takes to perform the activities involved in application processing or audit functions. Simply put,

Fee for activity = ECR × Time for activity.

OSHA derives the ECR by taking the total estimated direct and indirect costs of the program, consisting of personnel costs (salary and fringe) and office expenses, but excluding travel, and dividing that total by the total available annual work hours of the direct staff devoted to all the NRTL Program activities, i.e., the number of full-time equivalent (FTE) personnel.[1] Illustrated as an equation:

ECR = TPC / TAW,

where TPC is the total estimated direct and indirect program costs (excluding travel) and TAW is the total available annual work hours of the direct staff.

Figure 1, below, represents OSHA's TPC of providing the services for which we charge fees and shows the calculation of the ECR. As a result of our adjustments, our base hourly rate for calculating our fees, i.e., the ECR, has increased approximately 17% above the previous level, from $54.50 to $63.80. The $54.50 is the rate that was derived using 2002 projected staff salary and fringe, and other program costs. It is the rate contained in the prior fee schedule (effective January 1, 2002), which is now superseded by the fee schedule shown in this notice. The 17% increase mainly reflects annual salary adjustments provided to Federal employees that have accumulated since the revision in 2002. The Agency believes these costs are fair and reasonable.

FIGURE 1.—NRTL PROGRAM ANNUAL COST ESTIMATES

| Cost description | FTE | Avg. cost per FTE (including fringe) | Total costs |
|---|---|---|---|
| Direct Staff Costs | 5.24 | $110,743 | $580,294 |
| Indirect Staff & Other Costs | na | na | *115,130 |
| Subtotal Costs | | | 695,424 |
| Travel Expenses | na | na | 60,000 |
| Total Program Costs | | | 755,424 |

Avg. direct staff cost/hr. = $580,294/(5.24 FTE × 2,080 hours) = $53.20.
ECR = Equivalent avg. direct staff cost/hr. rate = $695,424/(5.24 FTE × 2,080 hours) = $63.80 (includes direct & indirect costs but not travel).
* This amount consists of $60,150 for management and support staff and $54,980 for equipment and other costs.

In Figure 1, Direct Staff Costs are personnel costs for the staff that perform direct activities (i.e., the services, such as the application, on-site and legal reviews, and other activities involved in application processing and audits) as well as activities not directly connected to the fees. Indirect Staff and Other Costs are expenses for support and management staff, equipment, and other costs that are involved in the operation of the program. Support and management staff consists of program management and secretarial staff. Equipment and other costs are intended to cover items such as computers, telephones, building space, utilities, and supplies, which are necessary to perform the services covered by the fees. In general, indirect costs, by their very nature, are not readily identified with a specific output (in the present context, a specific activity) but are used in producing it. They are allocated to the application processing and audit activities based on direct staff costs. Travel Expenses shown in the figures are estimates of the costs we incur for travel related to the services that are covered by the fees. However, this amount is not included in the ECR since we charge for the actual staff travel expenses of the on-site visits performed by our program staff. In Figure 1, the travel expenses figure is presented only to show total program costs.

The use of an ''equivalent average direct staff cost per hour rate'' (ECR) measure is a convenient method of

[1] In discussing total hours in this notice, we often refer to FTEs which stands for full-time equivalents and equals total hours dividedby 2,080, the total available annual work hours for one full-time employee.

allocating indirect costs to each of the services for which OSHA is charging fees. The same result is obtained if direct staff costs are first calculated and then indirect costs are allocated based on the value, i.e., dollar amount, of the direct staff costs, which is an approach that is consistent with Federal accounting standards.

To illustrate this, assume that a direct staff member spends 10 hours on an activity; the direct staff costs would then be calculated as follows: Direct staff costs = 10 hours × $53.20/hour = $532.

The $53.20/hour is the average direct staff cost/hour amount shown in Figure 1. The indirect costs would be allocated by first calculating the ratio of indirect costs to direct staff costs, again using the costs shown in Figure 1. This ratio would be as follows: Indirect costs/direct staff costs = $115,130/$580,294 = 0.1984.

Next, the indirect costs would be calculated based on the $532 estimate of direct staff costs: Indirect costs = $532 × 0.1984 = $106.

inally, the total costs of the activity are calculated: Total costs = direct staff costs + indirect costs = $532 + $106 = $638.

We derive the same amount using the ECR of $63.80, *i.e.*, 10 hours x $63.80/hour = $638.

*B. Modified Activity Times and Additional Activities*

In addition to updating the ECR, the Agency has updated estimates of the average staff time that it spends on some specific activities or functions of the services covered by the fees. The staff activity times we updated resulted in a portion of the adjustments in the Fee Schedule (Table A below). OSHA previously developed these times for each major activity within the main types of services, which are application processing and audits.

For application processing, OSHA has increased the average staff activity time in the areas of the on-site assessment and the final report/**Federal Register** notice activities. In the first case, the increase mainly reflects the time necessary for making travel arrangements and, in the second case, mainly reflects the separate time necessary for the preparation of the notice. For audits, OSHA has increased the average staff activity time in the areas of the pre-site review and report preparation activities, each for similar reasons as the corresponding application activities just described. In addition, in both cases, we now charge for actual travel time (i.e., time in travel to and from sites), which replaces the nominal 4 hours that was included in the first day fee for assessments and audits of the prior fee schedule.

OSHA also is now charging for some additional activities it performs during application processing and audits. These activities are for Additional Application Review, Supplemental Program Review, and Invoice Processing. Section IV of this notice further explains these activities and the modifications mentioned above. The revised fees reflect the Agency's experience with the NRTL Program fees over the four years since OSHA published the prior fee schedule.

*C. Tables of Activity Costs*

Figures 2, 3, 4, and 5, below, present the costs of the major activities for which fees are charged. We include average travel costs in the figures below to provide an overall cost for a particular activity. However, as explained above, since we charge for actual travel, only the non-travel costs serve as the basis for the fees later shown in the Fee Schedule (Table A). In deriving the fee amounts shown in Table A, OSHA has generally rounded the costs shown in Figures 2, 3, 4, and 5, up or down, to the nearest $5 or $10 amount.

FIGURE 2.—INITIAL APPLICATION COST ESTIMATES

| Major activity | Type of cost | Average hours | Average cost* |
|---|---|---|---|
| Initial Application Review | Office and field staff time | 80 | $5,100 |
| Additional Review Time | Office staff | 16 | 1,020 |
| On-Site Assessment—first day (per site, per assessor). | field staff time (16 hours preparation, 6 hours travel processing, and 8 hours at site). | 30 | 1,914 |
| | Field staff travel expense ($700 airfare/other + $100 per diem). | [1] | 800 |
| | Total | | 2,714 |
| On-Site Assessment—each addnl. day** (per site, per assessor). | field staff time (at site) | 8 | 510 |
| | Field staff travel expense (per diem only) | [1] | 100 |
| | Total | | 610 |
| On-Site Assessment travel time—per day (per site, per assessor). | field staff | 8 | 510 |
| Review and Evaluation (10 test standards) | Office staff time | 2 | 128 |
| Final Report & **Federal Register notice** | field and office staff time | 132 | 8,422 |
| Fees Invoice Processing | Office staff time | 2 | 128 |

* Average cost for staff time = average hours × equivalent average direct staff cost/hr. ($63.80).
** Note: 2 additional days estimated if there are 2 assessors and 4 additional days estimated if there is 1 assessor.
[1] Not applicable.

FIGURE 3.—EXPANSION APPLICATION (ADDITIONAL SITE) COST ESTIMATES

| Major activity | Type of cost | Average hours | Average cost* |
|---|---|---|---|
| Application Review (expansion for site) | Office and field staff time | 16 | $1,021 |
| Additional Review Time | Office staff | 8 | 510 |
| On-Site Assessment—first day (per site, per assessor). | field staff time (12 hours preparation, 4 hours travel processing, and 8 hours at site). | 24 | 1,531 |

FIGURE 3.—EXPANSION APPLICATION (ADDITIONAL SITE) COST ESTIMATES—Continued

| Major activity | Type of cost | Average hours | Average cost* |
|---|---|---|---|
| | field staff travel time expense ($700 airfare/other + $100 per diem). | [1] | 800 |
| | Total | | 2,331 |
| On-Site Assessment—addnl. day** (per site, per assessor). | field staff time (at site) | 8 | 510 |
| | field staff travel expense (per diem only) | [1] | 100 |
| | Total | | 610 |
| On-Site Assessment travel time—per day (per site, per assessor). | field staff | 8 | 510 |
| Review and Evaluation Fee (10 test standards) | office staff time | 2 | 128 |
| Final Report & **Federal Register notice** | Field and office staff time | 50 | 3,190 |
| Fees Invoice Processing | Office staff time | 2 | 128 |

* Average cost for staff time = average hours × equivalent average direct staff cost/hr. (63.80).
** Note: 2 additional days estimated for 1 assessor.
[1] Not applicable.

FIGURE 4.—RENEWAL OR EXPANSION (OTHER THAN ADDITIONAL SITE) APPLICATION COST ESTIMATES

| Major activity | Type of cost | Average hours | Average cost* |
|---|---|---|---|
| Application Review (renewal or expansion other than additional site). | Office and field staff time | 2 | $128 |
| Additional Review Time | Office staff | 8 | 510 |
| Renewal Application Information Review | Office staff | 16 | 1,021 |
| On-Site Assessment—first day (expansion) (per site, per assessor). | field staff time (8 hours preparation, 4 hours travel processing, and 8 hours at site). | 20 | 1,276 |
| | field staff travel expense ($700 airfare/other + $100 per diem). | [3] | 800 |
| | Total | | 2,076 |
| On-Site Assessment—first day (renewal) (per site, per assessor). | field staff time (16 hours preparation, 4 hours travel processing, and 8 hours at site). | 28 | 1,787 |
| | field staff travel expense ($700 airfare/other + $100 per diem). | [3] | 800 |
| | Total | | 2,587 |
| On-Site Assessment—addnl. day** (per site, per assessor) | Office staff time (at site) | 8 | 510 |
| | field staff travel expense (covers per diem only) | [3] | 100 |
| | Total | | 610 |
| On-Site Assessment travel time—per day (per site, per assessor). | field staff | 8 | 510 |
| Review and Evaluation Fee (10 test standards) (expansion) | Office staff time | 2 | 128 |
| Final Report & **Federal Register notice** | Office and field staff time (if there is an on-site assessment). | 50 | 3,190 |
| Final Report & **Federal Register notice** | Office and field staff time (if there is NO on-site assessment). | 30 | 1,914 |
| Supplemental Program Review | Office and field staff time (per program requested incl. consultation and assessor's memo). | 4 | 255 |
| Fees Invoice Processing | Office staff time | 2 | 128 |

* Average cost for staff time = average hours × equivalent average direct staff cost/hr. ($63.80).
** Note: 2 additional days estimated for renewal assessment; no additional days for expansion assessment.
[3] Not applicable.

FIGURE 5.—ON-SITE AUDIT COST ESTIMATES

| Major activity | Type of cost | Average hours | Average cost* |
|---|---|---|---|
| On-Site Audit—first day (per site, per auditor) | Field staff time (12 hours pre-site review preparation, 4 hours travel processing, and 8 hours at site). | 24 | $1,531 |
| | Prepare report/contact NRTL plus office review staff time (2 days for field staff and 2 hours for office staff). | 18 | 1,148 |
| | Subtotal (first day) | | 2,679 |
| | Field staff travel expense ($700 airfare/other + $100 per diem). | [4] | 800 |
| | Total | | 3,479 |

FIGURE 5.—ON-SITE AUDIT COST ESTIMATES—Continued

| Major activity | Type of cost | Average hours | Average cost* |
|---|---|---|---|
| On-Site Audit—addnl. day** (per site, per auditor) | field staff time (at site) | 8 | 510 |
| | Travel expense (covers per diem only) | [4] | 100 |
| | Total | | 610 |
| On-Site Audit travel time—per day (per site, per auditor) | Field staff | 8 | 510 |
| Fees Invoice Processing | Office staff time | 2 | 128 |

*Average cost for staff time = average hours × equivalent average direct staff cost/hr. ($63.80) **Note: 1.0 additional day estimated for 1 auditor.

[4] Not applicable.

## IV. Fee Schedule and Description of Fees

OSHA is adopting the fee schedule shown below as Table A.

*Table A. FEE SCHEDULE*

NATIONALLY RECOGNIZED TESTING LABORATORY PROGRAM (NRTL PROGRAM) FEE SCHEDULE (EFFECTIVE FEBRUARY 15, 2007) [12]

| Type of service | Activity or category (fee charged per application unless noted otherwise) | Fee amount |
|---|---|---|
| APPLICATION PROCESSING | Initial Application Review [1,8] | $5,100. |
| | Expansion Application Review (per additional site) [1,8] | 1,020. |
| | Renewal or Expansion (other) Application Review [1] | 130. |
| | Renewal Information Review Fee [7] | 1,020. |
| | Additional Review—Initial Application (if the application is substantially revised, submit one-half Initial Application Review fee) [7]. | 1,020. |
| | Additional Review—Renewal or Expansion Application [7] | 510. |
| | Assessment—Initial Application (per site—SUBMIT WITH APPLICATION) [2,4,8]. | 8,890. |
| | Assessment—Initial Application (per person, per site—first day—BILLED AFTER ASSESSMENT) [2,10]. | 1,910 + actual travel expenses. |
| | Assessment—Renewal Application (per person, per site—first day) [3,10] | 1,790 + actual travel expenses. |
| | Assessment—Expansion Application (additional site) (per person, per site—first day) [3]. | 1,530 + actual travel expenses. |
| | Assessment—Expansion Application (other) (per person, per site—first day) [3]. | 1,280 + actual travel expenses. |
| | Assessment—each addnl. day or each day on travel (per person, per site) [2,3]. | 510 + actual travel expenses. |
| | Review and Evaluation [5] (13 per standard if it is already recognized for NRTLs and requires minimal review; OR else 64 per standard). | 13 per standard OR 64 per standard. |
| | Final Report/Register Notice—Initial Application [5,9] | 8,420. |
| | Final Report/Register Notice—Renewal or Expansion Application (if OSHA performs on-site assessment) [5,9]. | 3,190. |
| | Final Report/Register Notice—Renewal or Expansion Application (if OSHA performs NO on-site assessment) [5,9]. | 1,910. |
| AUDITS | On-site Audit (per person, per site, first day) [6] | 2,680 + actual travel expenses. |
| | On-site Audit—each addnl. day or each day on travel (per person, per site) [6] | 510 + actual travel expenses. |
| | Office Audit (per person, per site) [6] | 510. |
| MISCELLANEOUS | Supplemental Travel (per site—for sites located outside the 48 contiguous States or the District of Columbia) [4]. | 1,000. |
| | Supplemental Program Review (per program requested) [4] | 260. |
| | Fees Invoice Processing (per application or audit) [4] | 130. |
| | Late Payment\11\ | 64. |

Notes to OSHA Fee Schedule for NRTLs:

1. Who must pay the Application Review fees, and when must they be paid?

If you are applying for initial recognition as an NRTL, you must pay the Initial Application Review fee and include this fee with your initial application. If you are an NRTL and applying for an expansion or renewal of recognition, you must pay the Expansion Application Review fee or Renewal Application Review fee, as appropriate, and submit this fee concurrently with your expansion or renewal application. See note 7 if you amend or revise your initial or expansion application.

2. What assessment fees do you submit for an initial application, and when must they be paid?

If you are applying for initial recognition as an NRTL, you must pay $8,890 for each site for which you wish to obtain recognition, and you must submit this amount concurrently with your initial application. We base this amount on two assessors performing a three-day assessment at each site. After completing the actual assessment, we calculate our assessment fee based on the actual staff time and travel costs incurred in performing the assessment. We calculate this fee at the rate of $1,910 for the first day at the site, $510 for each additional day at the site, and $510 for each day in travel, plus actual travel expenses, for each assessor. (*Note: days charged for being in travel status are those allowed under government travel rules. This note applies to any assessment or audit.*) Actual travel expenses are determined by government per diem and other travel rules. We bill or refund the difference between the amount you pre-paid and the actual assessment fee. We reflect this difference in the final bill that we send to you at the time we publish the preliminary FEDERAL REGISTER notice announcing the application.

3. What assessment fees do you submit for an expansion or renewal application, and when must they be paid?

If you are an NRTL and applying solely for an expansion or renewal of recognition, you do not submit any assessment fee with your application. If we need to perform an assessment for the expansion or renewal request, we bill you for this fee after we perform the assessment. The fee is based on the actual staff time and travel costs we incurred in performing the assessment. We calculate this fee at the rate of $1,790, $1,530, or $1,280 for the first day at the site of a renewal, expansion (site), and expansion (other) assessment, respectively. We also include $510 for each additional day at the site and $510 for each day in travel, plus actual travel expenses, for each assessor. Actual travel expenses are determined by government per diem and other travel rules. When more than one site of the NRTL is visited during one trip, we charge the $510 additional day fee, plus actual travel expenses, for each day at a site.

4. When do I pay the Supplemental Travel, the Supplemental Program Review, or the Fees Invoice Processing fees?

You must include the Supplemental Travel fee when you submit an initial application for recognition and the site you wish to be recognized is located outside the 48 contiguous U.S. states or the District of Columbia. The current supplemental travel fee is $1,000. We factor in this prepayment when we bill for the actual costs of the assessment, as described in our note 2, above. See note 8 for possible refund of application or assessment fees. You must include the Supplemental Program Review fee when you apply for approval to use other qualified parties or facilities to perform specific activities. See Chapter 2 of the NRTL Program Directive for more information. We will include the Fees Invoice Processing fee in the total for each of our invoices to you.

5. When do I pay the Review and Evaluation and the Final Report/Register Notice fees?

We bill an applicant or an NRTL for the appropriate fees at the time we publish the preliminary FEDERAL REGISTER notice to announce the application. We calculate the Review and Evaluation Fee at the rate of $13 per test standard requested for those standards that OSHA previously recognized for any NRTL and that require minimal review or do not represent a new area of testing for the NRTL. Otherwise, this fee is $64 per standard requested.

6. When do I pay the Audit fee?

We bill the NRTL for this fee (on-site or office, as deemed necessary) after completion of the audit and base the fee on actual staff time and travel costs incurred in performing the audit. We calculate our fee at the rate of $2,680 for the first day at the site, $510 for each additional day at the site, and $510 for each day in travel, plus actual travel expenses for each auditor. Actual travel expenses are determined by government per diem and other travel rules.

7. When do I pay the Additional Review fee or Renewal Information Review fee?

The Additional Review fees cover the staff time in reviewing new or modified information submitted after we have completed our preliminary review of an application. There is no charge for review of a ''minor'' revision, which entails modifying or supplementing less than approximately 10% of the documentation in the application. The Additional Review fee applies to revisions modifying or supplementing from 10% to 50% of that documentation. For a new application, the fee represents 16 hours of additional review time and for a renewal or expansion application, the fee represents 8 hours of additional review time. If an applicant exceeds that 50% threshold in revising its application, we will charge one-half the Initial Application Review fee and the full Expansion Application Review fee, as applicable. The Renewal Information Review fee applies when an NRTL submits updated information to OSHA in connection with a request for renewal of recognition.

8. When and how can I obtain a refund for the fees that I paid?

If you withdraw before we complete our preliminary review of your initial application or your expansion application to include an additional site, we will refund half of the application fee. If you are applying for initial recognition as an NRTL, we will refund the pre-paid assessment fees if you withdraw your application before we have traveled to your site to perform the on-site assessment. For an initial application, we will also credit your account for any amount of the pre-paid assessment fees collected that is greater than the actual cost of the assessment. Other than these cases, we do not generally refund or grant credit for any other fees that are due or collected.

9. Will I be billed even if my application is rejected?

If we reject your application, we will bill you for the fees pertaining to tasks that we have performed that are not covered by the fees you have submitted. For example, if we perform an assessment for an expansion application but deny the expansion, we will bill you for the assessment fee. Similarly, we will bill you for the Final Report and FEDERAL REGISTER fee if we also wrote the report and published the notice. See note 11 for the consequences of non-payment.

10. What rate does OSHA use to charge for staff time?

OSHA has estimated an equivalent staff cost per hour that it uses for determining the fees that are shown in the Fee Schedule. This hourly rate takes into account the costs for salary, fringe benefits, equipment, supervision and support for each ''direct staff'' member, that is, the staff that perform the main activities identified in the Fee Schedule. The rate is an average of these amounts for each of these direct staff members. The current estimated equivalent staff costs per hour = $63.80.

11. What happens if I do not pay the fees that I am billed?

As explained above, if you are an applicant, we will send you a final bill (for any assessment and for the Review and Evaluation and Final Report/Register Notice fees) at the time we publish the preliminary FEDERAL REGISTER notice. If you do not pay the bill by the due date, we will assess the Late Payment fee shown in the Fee Schedule. This late payment fee represents one hour of staff time at the equivalent staff cost per hour (see note 10). If we do not receive payment within 60 days of the bill date, we will cancel your application. As also explained above, if you are an NRTL, we will generally send you a bill for the audit fee after completion of the audit. If you do not pay the fee by the due date, we will assess the Late Payment Fee shown in the Fee Schedule. If we do not receive payment within 60 days of the bill date, we will publish a FEDERAL REGISTER notice stating our intent to revoke recognition. However, please note that in either case, you may be subject to collection procedures under U.S. (Federal) law.

12. How do I know whether this is the most Current Fee Schedule?

You should contact OSHA's NRTL Program (202–693–2110) or visit the program's Web site to determine the effective date of the most current Fee Schedule. Access the site by selecting ''N'' in the Subject Index at *www.osha.gov.* Any application review fees are those in effect on the date you submit your application. Other application processing fees are those in effect when the activity covered by the fee is performed. Audit fees are those in effect on the date we begin our audit.

The following is a description of the tasks and functions currently covered by each type of fee category, e.g., application fees, and the basis used to charge each fee.

Application Fees: This fee reflects the technical work performed by office and field staff in reviewing application documents to determine whether an applicant submitted complete and adequate information. The application review does not include a determination on the test standards requested, which is reflected in the Review and Evaluation fee. Application fees are based upon average costs per type of application. OSHA uses an average cost because the amount of time spent on the application review does not vary greatly by type of application. This is based on the premise that the number and type of documents submitted will generally be the same for a given type of application. Experience has shown that, indeed, most applicants do follow the application guide that OSHA provides. Two new fees were added in this area,

which are explained in the Section VI, below.

*Assessment Fees:* This fee is different for the initial, renewal, expansion (site) and expansion (other) applications. It is based on the number of days for staff preparatory and on-site work and related travel. Six types of fees are shown, and five are charged per site and per person. The four fees for the first day reflect time for office preparation and 8 hours at the applicant's facility. There is one fee covering either additional days at the facility and/or days in travel. Additional days or days in travel are assessed for either a half or a full day. A supplemental travel amount is assessed for travel outside the contiguous 48 states or the District of Columbia. For initial applications, an amount to cover the assessment must be submitted ''up-front'' with the application. In addition to the first day and additional day amounts, the applicant or NRTL must pay actual travel expenses, based on government per diem and travel rules. For initial applications, any difference between actual travel expenses and the up-front travel amount is reflected in the final bill or refund sent to the applicant.

Similar to the application fee, the office preparation time generally involves the same types of activities. Actual time at the facility may vary, but the staff devote at least a full day to performing the on-site work. The fee for the additional day reflects time spent at the facility and the actual travel expenses for that day.

*Review and Evaluation Fee:* This fee is charged per test standard (which is part of an applicant's proposed scope of recognition). The fee reflects the fact that staff time spent on the office review of an application varies based on the number of test standards requested by the applicant. In general, the fee is based on the estimated time necessary to review test standards to determine whether each one is ''appropriate,'' as defined in 29 CFR 1910.7, and covers equipment for which OSHA mandates certification by an NRTL. The fee also covers time to determine the current designation and status (i.e., active or withdrawn) of a test standard by reviewing current directories of the applicable test standard organization. Moreover, it includes time spent discussing the results of the application review with the applicant. The actual time spent will vary depending on whether an applicant requests test standards that have previously been approved for other NRTLs. When the review is minimal, these activities take approximately 2 hours for 10 standards. This translates to $13 per standard. When the review is more substantial, the estimated average review time per standard is one hour for each standard, which translates to $64 per standard. Substantial review will occur when the standard has not been previously recognized for any NRTL or when the NRTL is proposing to conduct testing in a ''new'' area, i.e., for a type of product not similar to any currently included under its scope of recognition.

*Final Report/Register Notice Fees:* Each of these fees are charged per application. The fee reflects the staff time required to prepare the report of the on-site review of an applicant's or an NRTL's facility, which includes contacting the applicant or NRTL to discuss issues or items in its response to our findings during our assessment. The fee also reflects the time spent making the final evaluation of an application, preparing the required **Federal Register** notices, and responding to comments received in response to the preliminary finding notice. These fees are based on average costs per type of application, since the type and content of documents prepared are generally the same for each type of applicant. There is a separate fee when OSHA performs no on-site assessment. In these cases, the NRTL Program staff perform an office assessment and prepare a memorandum to recommend the expansion or renewal.

*Audit (Post-Recognition Review) Fees:* These fees reflect the time for office preparation, time at the facility and travel, and time to prepare the audit report of the on-site audit. A separate fee is shown for an office audit conducted in lieu of an actual visit. Each fee is per site and does not generally vary for the same reasons described for the assessment fee and because the audit is generally limited to between one and two days. As previously described, the audit fee includes amounts for travel, and, similar to assessments, OSHA will bill the NRTL for actual travel expenses.

*Miscellaneous Fees:* Four different fees are shown under this category. OSHA can charge a Late Payment fee if an invoice is not paid by the due date. This amount represents 1 hour of staff time for contacting the NRTL and preparing a late invoice and cover letter. The Supplemental Travel fee applies per site for an initial application if the site to be recognized is located outside the 48 contiguous U.S. states or the District of Columbia. The fee is $1,000. We added two new miscellaneous fees, which are explained in Section VI, below.

## VI. Major Changes to the Fee Schedule

The following table shows the major adjustments (i.e., increases or decreases of $100 or more) that we made to the fee schedule in Table A as compared to the prior fee schedule, which had been in effect since January 1, 2002. Following the table, we explain each of the major adjustments.

TABLE OF MAJOR ADJUSTMENTS TO FEE SCHEDULE

| Description of activity or category | Prior fee amount | Present fee amount | Comment on change in fee amount |
|---|---|---|---|
| Initial Application Review | $4,400 | $5,100 | none |
| Expansion Application Review | 850 | 1,020 | none |
| Additional Review—Initial Application | [1] | 1,020 | new fee |
| Renewal Application Information Review | [1] | 1,020 | new fee |
| Additional Review—Renewal or Expansion Application | [1] | 510 | new fee |
| Assessment—Initial Application (SUBMIT WITH APPLICATION) | 6,500 | 8,890 | none |
| Assessment—Initial Application (per person, per site—first day—BILLED AFTER ASSESSMENT). | 1,500 | 1,910 | none |
| Assessment—Renewal Application (per person, per site—first day) | 1,100 | 1,790 | currently combined with expansion assessment fee |
| Assessment—Expansion (additional site) (per person, per site—first day) | 1,100 | 1,530 | currently combined with renewal assessment fee |
| Assessment—Expansion (other) (per person, per site—first day) | 1,100 | 1,280 | currently combined with renewal assessment fee |

TABLE OF MAJOR ADJUSTMENTS TO FEE SCHEDULE—Continued

| Description of activity or category | Prior fee amount | Present fee amount | Comment on change in fee amount |
|---|---|---|---|
| Assessment—each addnl. day OR travel time—each day (per person, per site). | 440 | 510 | only 4 hours of travel time currently charged through the first day fee for assessments |
| Review & Evaluation | [2] 10 | [3] 13 | correction of undercharge per ten standards: $130 × $10 = $120 |
| Final Report/Register Notice—Initial Application | 6,550 | 8,420 | none |
| Final Report/Register Notice—Renewal or Expansion Application (if OSHA performs on-site assessment). | 2,600 | 3,190 | none |
| Final Report/Register Notice—Renewal or Expansion Application (if OSHA performs NO on-site assessment). | 1,500 | 1,910 | none |
| On-site Audit (first day) | 1,950 | 2,680 | none |
| Supplemental Program Review | [1] | 260 | new fee |
| Fees Invoice Processing | [1] | 130 | new fee |

[1] None.
[2] Per ten standards.
[3] Per standard.

*Application and Assessment.* The increase in the application review fees, the assessment-related fees, and the final report/register notice fees resulted primarily from the increase in the hourly cost charged for the direct staff time. The audit-related fees also increased in part for the same reason but also because we added 4 hours for the pre-site review of each audit and 14 hours for the preparation of the audit report. These extra audit-related hours are reflected in Figure 5. In our prior fee schedule, we had a fee for Assessment—Expansion or Renewal Application (first day). Under the new schedule, we replace this with a separate assessment fee for renewals and a separate fee for each type of expansion.

*Travel.* We changed our treatment of ''travel time,'' which is time in travel to and from a site, as opposed to audit or assessment time at a site. Travel time is determined following government travel regulations. The prior fee schedule included only 4 hours of travel time for an entire trip, which was reflected in the first day fee for assessments and audits. As explained in the notes to the fee schedule, we have now removed the 4-hour travel time from these first day fees and charge for actual travel time at the rate for an additional day, which under the new schedule would be $510. This rate would be charged based on either a half-day or a full day. We are charging this fee separately, as opposed to including it in the first day flat fee, in order to more accurately recoup our travel costs. For example, if a trip for an audit lasts a total of three days, with two of those days spent at the site, we previously charged the lab for 2.5 workdays (20 hours). Under the new schedule, we are charging for 3 workdays (24 hours). This charge is most important in the case of foreign travel where travel time may be 2 or 3 days in total. Of course, the removal of the 4 hours of travel time from the first day of an assessment or of an audit reduces those fees.

*Additional Application Review.* The new Additional Review fees cover the staff time in reviewing new or modified information submitted for an application. For example, an applicant may need to revise or amend an initial or expansion application if we find that there are ''major'' deficiencies with it. There is no charge for review of a ''minor'' revision, which as Note 7 to the Fee Schedule describes, entails modifying or supplementing less than approximately 10% of the documentation in the application. The Additional Review fee applies to revisions modifying or supplementing from 10% to 50% of that documentation. For a new application, the fee represents 16 hours of additional review time and for a renewal or expansion application, the fee represents 8 hours of additional review time. If an applicant exceeds that 50% threshold in revising its application, we will charge one-half the Initial Application Review fee and the full Expansion Application Review fee, as applicable. The Renewal Information Review fee applies when an NRTL submits updated information to OSHA in connection with a request for renewal of recognition. For example, such information may include revised procedures and manuals for various parts of its testing and certification activities.

*Supplemental Program Review and Fees Invoice Processing.* There are two more new fees, which will recoup costs for tasks we now perform in application processing and/or audits, but for which we had not been charging. The first fee, Supplemental Program Review, covers the time to review requests by NRTLs to use a supplemental program, under which NRTLs can use other qualified parties to perform tasks necessary for product testing and certification. Currently, there are eight of these programs, and NRTLs may apply to use one or more of them. The use of the term ''program'' in this context may be a bit misleading. It is not separate from, but just a segment within, the NRTL Program and defines the category or type of activity or service that the NRTL can accept from other parties or facilities. To be approved to use a program, the NRTL must meet certain criteria and the fee covers the time for us to make the office review and determination. If an on-site assessment were needed as part of granting the approval, this would be covered separately in the fee for the on-site assessment or audit during which we review documentation or other operational aspects related to a proposed use of the applicable program(s). The second fee is Fees Invoice Processing, which also involves tasks directly related to the application processing or audit activities and for which we have not been recouping costs. We follow essentially the same process to prepare each invoice for either an application or an audit and would thus charge per invoice prepared.

*Review and Evaluation Fee.* The increase in the Review and Evaluation Fee is primarily a correction to the basis we used in the current fee schedule. In both cases, we base the fee on performing two separate reviews of 10 standards in 2 hours. However, the current fee schedule incorrectly reflects a $10 cost for those 2 hours. Since the prior hourly rate had been $54.50, this means the prior fee was understated by

about $100 per ten standards (i.e., it should have been $109 per 10 standards, but we only charged $10 per 10 standards). At the new hourly rate, those 2 hours would result in a cost of $130 for the 10 standards or $13 per standard.

*Notes to the Fee Schedule.* We have also changed a few of the notes to the fee schedule. In the table below, we show the notes that we have modified or added and explain why. Adjustments that merely updated a fee amount mentioned in a note are not explained or described in the table below.

TABLE OF MODIFIED OR NEW NOTES TO THE FEE SCHEDULE

| Note to fee dchedule | Fee or area covered by note | Reason(s) for modifying or adding note |
|---|---|---|
| 2 | Initial application assessment | This note now also describes the separate charge for staff travel time. |
| 3 | Expansion or renewal assessment | This note now also describes the separate charge for staff travel time and shows the different first day fees for renewal and expansion assessments. |
| 4 | Supplemental travel | This note mentions possible refund of application fees. It also describes the new Supplemental Program Review and Fees Invoice Processing fees. |
| 5 | Review and evaluation | We corrected the basis for charging this fee, as explained in the section above. |
| 6 | Audit | This note now also describes the separate charge for staff travel time. |
| 7 | Additional review | Note 7 previously covered refund of fees and now would cover the fee for additional reviews of applications. |
| 8 | Refunds | This note would permit refunds of half the application fee if an applicant withdraws its initial or expansion (additional site) application before we complete our preliminary review. Note 8 previously covered the hourly rate for staff time, which is now under Note 10. |
| 9 | Application rejection | Note 9 previously covered non-payment of fees and now would cover the new area of fees due if we were to reject an application. |
| 11 | Non-payment | Note 11 is new. This area was previously covered under Note 9 and now would include a statement about collection procedures under U.S. (Federal) law. |
| 12 | Fees in effect | Note 12 is new. This area was previously covered under Note 10 and now would include a note primarily to change the ''in-effect'' criterion for certain application processing fees. |

Finally, we are explaining again a matter dealing with the fee for Review and Evaluation, which was addressed when revising our fees in 2002. We revisit it here to clarify one aspect of our work involved in this activity. NRTLs submit requests to expand their scope to include additional test standards, i.e., testing of additional types of products. Generally, this request has consisted of a listing of the test standards. If we determine that the products requested are similar to products already in the particular NRTL's scope, the testing falls within its current capabilities, and no additional documentation needs to be reviewed. In that case, the NRTL is charged the new fee of $13 per standard requested. However, if the NRTL requests a standard that represents a new area of testing outside its scope, then it must submit information on the testing equipment and procedures it will use as well as the qualifications of personnel that will perform the testing. In that case, the charge will be $64 per standard, representing an average of 1 hour to review the information that must be submitted. Similarly, if OSHA has not previously recognized a particular standard for any NRTL, even though it may cover types of products under test standards that we have recognized, we will charge $64 per standard, representing an average of 1 hour to review the testing and other provisions of the standard and to determine if the NRTL has the necessary capability.

*Final Decision*

OSHA has performed its annual review of the fees it currently charges to Nationally Recognized Testing Laboratories, as provided under 29 CFR 1910.7(f). Based on this review, OSHA has determined that its prior fee schedule warranted adjustment, as detailed in this notice. As a result, OSHA now establishes the revised fees by adopting the Nationally Recognized Testing Laboratory Program Fees Schedule shown as Table A above, effective February 15, 2007. This fee schedule will remain in effect until superseded by a later fee schedule. OSHA will provide the public an opportunity to comment on any future changes to the fees.

Signed at Washington, DC this 12th day of February, 2007.

**Edwin G. Foulke, Jr.,**

*Assistant Secretary of Labor.*

[FR Doc. E7–2661 Filed 2–14–07; 8:45 am]

BILLING CODE 4510–26–P

## DEPARTMENT OF LABOR

### Veterans' Employment and Training Service

### Proposed Information Collection Request Submitted for Public Comment and Recommendations Eligibility Data Form: Uniformed Services Employment and Reemployment Rights Act and Veteran's Preference (USERRA/VP)

**AGENCY:** Veterans' Employment and Training Service (VETS), Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, 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. 3506 C (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 Veterans' Employment and Training Service (VETS) is soliciting comments concerning the proposed information

collection request for the VETS USERRA/VP Form 1010.

**DATES:** Comments are to be submitted by April 9, 2007.

**ADDRESS:** Follow the instructions for submitting comments.

- *E-mail: FCP–NPRM–04–VETS@dol.gov*. Include ''VETS–1010'' in the subject line of the message.
- *Fax:* (202) 693–4755 (for comments of 10 pages or less).
- *Mail:* Robert Wilson, Chief, Division of Investigation and Compliance, VETS, U.S. Department of Labor, Room S–1316, 200 Constitution Avenue, NW., Washington, DC 20210.
- Receipt of submissions, whether by U.S. Mail, e-mail or FAX transmittal, will not be acknowledged; however, the sender may request confirmation that a submission has been received, by telephoning VETS at (202) 693–4719(VOICE) (this is not a toll-free number) or (202)693–4753 (TTY/TDD).

All comments received, including any personal information provided, will be available for public inspection during normal business hours at the above address. People needing assistance to review comments will be provided with appropriate aids such as readers or print magnifiers.

**FOR FURTHER INFORMATION CONTACT:** Robert Wilson, Chief, Division of Investigation and Compliance, VETS, at the U.S. Department of Labor, Room S–1316, 200 Constitution Avenue, NW., Washington, DC 20210, or by e-mail at *FCP–NPRM–04–VETS@dol.gov*

**ADDRESSES:** Comments are to be submitted to the Veterans' Employment and Training Service, U.S. Department of Labor, Room S–1316, 200 Constitution Ave., NW., Washington, DC 20210, telephone (202) 693–4711. Written comments limited to 10 pages or fewer may also be transmitted by facsimile to (202) 693–4755. Receipt of submissions, whether by U.S. mail, e-mail or FAX transmittal, will not be acknowledged; however, the sender may request confirmation that a submission has been received, by telephoning VETS at (202) 693–4719.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The VETS/USERRA/VP Form 1010 is used to file complaints with the Department of Labor's Veterans' Employment and Training Service (VETS) under either the Uniformed Services Employment and Reemployment Rights Act (USERRA) or laws/regulations related to veterans' preference (VP) in Federal employment. The purpose of the VETS/USERRA/VP Form information collection requirement include: to protect and facilitate the prompt reemployment of members of the uniformed services (to include National Guard and Reserves); to minimize disruption to the lives of persons who perform service in the uniformed services and their employers; and to encourage individuals to participate in non-career uniformed service. Also, to prohibit discrimination in employment and acts of reprisal against persons because of their obligations in the uniformed services, prior service, intention to join the uniformed services, filing of a USERRA claim, seeking assistance concerning an alleged violation, testifying in a proceeding, or otherwise assisting in an investigation.

The purposes of Veterans' Preference laws and regulations and this information collection requirement include: to provide preference for certain veterans (preference eligibles) over others in Federal hiring from competitive lists of applicants; and to provide preference eligibles with preference over others in retention during reductions in force in Federal agencies.

Two new questions are included in the VETS/USERRA/VP 1010 Form that does not impact the burden hours to complete the form. The form now asks for an e-mail address (question #6), and a (yes or no question #17) that states ''Was the Employer Support of the Guard and Reserve (ESGR) involved in handling your claim initially?''

## II. Desired Focus of Comments

Currently VETS is soliciting comments concerning the proposed information collection request for the VETS/USERRA/VP Form 1010. To obtain a copy of the VETS 1010 please contact Rob Wilson. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

## III. Current Actions

This notice requests an extension of the current Office of Management and Budget approval of the paperwork requirements for VETS/USERRA/VP Form 1010.

*Type of Review:* Extension.

*Agency:* Veterans' Employment and Training Service.

*Title:* VETS/USERRA/VP Form 1010.

*OMB Number:* 1293–0002.

*Affected Public:* Individuals or households.

*Total Respondents:* Approximately 1,500.

*Average Time per Response:* 15 minutes.

*Total Burden Hours:* 375 hours.

*Total Annualized Capital/Startup costs:* $0.

*Total Initial Annual Costs:* $0.

Comments submitted in response to this notice will be summarized and included in the request for the Office of Management and Budget approval of the information collection request. Comments will become a matter of public record.

Dated: February 8, 2007.

**John M. McWilliam**

*Deputy Assistant Secretary, Veterans' Employment and Training.*

[FR Doc. E7–2582 Filed 2–14–07; 8:45 am]

BILLING CODE 4510–79–P

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice (07–008)]**

## NASA International Space Station Advisory Committee; Meeting

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of meeting.

**SUMMARY:** The National Aeronautics and Space Administration announces an open meeting of the NASA International Space Station Advisory Committee.

**DATES:** Thursday, March 22, 2007, 1 p.m.–2 p.m. Eastern Daylight Time.

**ADDRESSES:** NASA Headquarters, 300 E Street, SW., Room 7U39, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Mr. Larry Kenyon, Office of External Relations, (202) 358–0644, National Aeronautics and Space Administration, Washington, DC 20546–0001.

**SUPPLEMENTARY INFORMATION:** This meeting will be open to the public up

to the seating capacity of the room. Five seats will be reserved for members of the press. The agenda for the meeting is as follows:

—To assess the operational readiness of the International Space Station to support a new crew.

—To assess the Russian and American flight teams' preparedness to accomplish the Expedition Fifteen mission.

—To assess the health and flight readiness of the Expedition Fifteen crew. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information: full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of attendee. To expedite admittance, attendees should provide identifying information in advance by contacting Larry Kenyon via e-mail at *Lawrence.a.kenyon@nasa.gov* or by telephone at (202) 358–0644 by Friday, March 16, 2007. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

**P. Diane Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. E7–2675 Filed 2–14–07; 8:45 am]

**BILLING CODE 7510–13–P**

## NUCLEAR REGULATORY COMMISSION

### Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** U.S. Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of the OMB review of the information collection and solicitation of public comment.

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Part 50, ''Domestic Licensing of Production and Utilization Facilities''.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* As necessary in order for NRC to meet its responsibilities to conduct a detailed review of applications for licenses, and amendments thereto, to construct and operate nuclear power plants, preliminary or final design approvals, design certifications, research and test facilities, reprocessing plants and other utilization and production facilities, licensed pursuant to the Atomic Energy Act of 1954, as amended, (the Act) and to monitor their activities.

5. *Who will be required or asked to report:* Licensees and applicants for nuclear power plants and research and test facilities.

6. *An estimate of the number of annual responses:* 45,513.

7. *The estimated number of annual respondents:* 187.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 6,181M; 3,141M hours reporting (an average of 69 hrs/response) + 3,040M hours recordkeeping (an average of 16K hrs/recordkeeper).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* N/A.

10 *Abstract:* 10 CFR Part 50 of the NRC's regulations, ''Domestic Licensing of Production and Utilization Facilities,'' specifies technical information and data to be provided to the NRC or maintained by applicants and licensees so that the NRC may make determinations necessary to protect the health and safety of the public, in accordance with the Act. The reporting and recordkeeping requirements contained in 10 CFR 50 are mandatory for the affected licensees and applicants.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by March 19, 2007. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Molly C. Tokaz, Office of Information and Regulatory Affairs (3150–0011), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Molly_C._Tokaz@omb.eop.gov* or submitted by telephone at 202–395–4650.

The NRC Clearance Officer is Margaret A. Janney, 301–415–7245.

Dated at Rockville, Maryland, this 8th day of February, 2007.

For the Nuclear Regulatory Commission.

**Margaret A. Janney,**

*NRC Clearance Officer, Office of Information Services.*

[FR Doc. E7–2602 Filed 2–14–07; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 04000341]**

### Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Source Materials License No. STC–133, for Unrestricted Release of the Defense Logistics Agency's Facility in Binghamton, New York

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Issuance of environmental assessment and finding of no significant impact for license amendment.

**FOR FURTHER INFORMATION CONTACT:** Dennis Lawyer, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania; telephone 610–337–5366; fax number 610–337–5393; or by e-mail: *drl1@nrc.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Source Materials License No. STC–133. This license is held by Defense Logistics Agency (the Licensee), for its Defense National Stockpile Center Binghamton Depot, located at Hoyt Avenue in Binghamton, New York (the Facility). Issuance of the amendment would

authorize release of the Facility for unrestricted use. The Licensee requested this action in a letter dated October 16, 2006. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

## II. Environmental Assessment

*Identification of Proposed Action*

The proposed action would approve the Licensee's October 16, 2006, license amendment request, resulting in release of the Facility for unrestricted use. License No. STC–133 was issued on July 27, 1983, pursuant to 10 CFR Part 40, and has been amended periodically since that time. This license authorized the Licensee to use unsealed byproduct material for purposes of storage, sampling, repackaging, and transferring materials.

The Facility is situated on 57 acres of land and consists of warehouse and office space. The Facility is located in a mixed residential/industrial area. Within the Facility, use of licensed materials was confined to the fire station and warehouses 8, 10, 11, 12, 13, and 14. The area of use totaled approximately 34,000 square feet.

On December 10, 2004, the Licensee ceased licensed activities and initiated a survey and decontamination of the Facility. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR Part 20 for unrestricted release.

*Need for the Proposed Action*

The Licensee has ceased conducting licensed activities at the Facility, and seeks the unrestricted use of its Facility.

*Environmental Impacts of the Proposed Action*

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: Natural uranium and thorium. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee conducted a final status survey on November 7–10, 2005, June 15–23, 2006, July 4–6, 2006, and August 3 and 4, 2006. This survey covered the areas of use as stated in the Final Status Survey Plan, dated February 2006. The final status survey report was enclosed with the Licensee's amendment request dated October 16, 2006, and an additional information letter dated December 19, 2006. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by developing derived concentration guideline levels (DCGLs) for its Facility. The Licensee conducted site-specific dose modeling using input parameters specific to the Facility and a conservative assumption that all residual radioactivity is in equilibrium. Federal Guidance Report Number 13 was used to modify the dose conversion factors because it is based on an improved, more realistic dosimetry model. The selected critical age group is adults as the expected future use of this facility will be industrial. Based on the type of building, railroad distribution, and truck access, there is no compelling evidence to indicate that the building will be used for anything other than industrial activities. The Licensee thus determined the maximum amount of residual radioactivity on building surfaces, equipment, materials, and soils that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The NRC previously reviewed the Licensee's methodology and proposed DCGLs, and concluded that the proposed DCGLs are acceptable for use as release criteria at the Facility. The NRC's approval of the Licensee's proposed DCGLs was published in the **Federal Register** on Tuesday, August 22, 2006, Volume 71, No. 162, pages 48952 and 48953. The Licensee's final status survey results were below these DCGLs, and are thus acceptable.

The NRC staff conducted a confirmatory survey June 15–16, 2006. None of the confirmatory sample results exceeded the DCGLs established for the Facility. Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facility for unrestricted use is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

*Environmental Impacts of the Alternatives to the Proposed Action*

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 40.42(d), requiring that decommissioning of source material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

*Conclusion*

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria

specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

*Agencies and Persons Consulted*

NRC provided a draft of this Environmental Assessment to the State of New York's Department of Environmental Conservation for review on December 27, 2006. On January 29, 2007, New York State responded by electronic mail. The State agreed with the conclusions of the EA, and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

**III. Finding of No Significant Impact**

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

**IV. Further Information**

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. NUREG–1757, ''Consolidated NMSS Decommissioning Guidance;''
2. Title 10 Code of Federal Regulations, Part 20, Subpart E, ''Radiological Criteria for License Termination;''
3. Title 10, Code of Federal Regulations, Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;''
4. NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities;''
5. ''Radiological Historical Site Assessment Report, Defense National Stockpile Center, Binghamton Deport, Binghamton, NY'' dated February 2006 [ML060730408];
6. ''Final Status Survey Plan, DNSC, Binghamton Depot, Binghamton, NY'' dated February 2006 [ML060730389];
7. ''Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Source Materials License No. STC–133 Authorizing the Use of Site-Specific Derived Concentration Guideline Levels for Unrestricted Release of the Defense Logistics Agency, Defense Nuclear Supply Center Depot in Binghamton, NY'' published in the **Federal Register** Volume 71, Number 162 on August 22, 2006, pages 48952 and 48953;
8. Defense Logistics Agency, Submittal of Final Status Survey Report for the Defense National Stockpile, Binghamton, NY Depot dated October 16, 2006 [ML062970211];
9. Defense Logistics Agency, Deficiency Response Letter dated December 19, 2006 [ML063540612]; and
10. Defense Logistics Agency, Deficiency Response Facsimilie dated January 3, 2007 [ML070040099].

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region 1, 475 Allendale Road, King of Prussia, this 5th day of February 2007.

For the Nuclear Regulatory Commission.

**James P. Dwyer,**

*Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region 1.*

[FR Doc. E7–2641 Filed 2–14–07; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards (ACRS); Subcommittee Meeting on Thermal-Hydraulic Phenomena; Revised

The ACRS Subcommittee meeting on Thermal-Hydraulic Phenomena scheduled for Monday, February 26 and Tuesday, February 27, 2007, 11545 Rockville Pike, Rockville, Maryland in Room T–2B3 has been *rescheduled for a one day meeting on Tuesday, February 27, 2007.* All other items pertaining to this meeting remain the same as published previously in the **Federal Register** on Tuesday, January 30, 2007 (72 FR 4303).

*For Future Information Contact:* Mr. Ralph Caruso, cognizant ACRS staff engineer (Telephone: 301–415–8065) between 7:30 a.m. and 4:15 p.m. (ET) or by e-mail *rxc@nrc.gov.*

Dated: February 8, 2007.

**David C. Fischer,**

*Acting Branch Chief, ACRS/ACNW.*

[FR Doc. E7–2603 Filed 2–14–07; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards (ACRS); Subcommittee Meeting on Materials, Metallurgy, and Reactor Fuels; Postponed

The ACRS Subcommittee meeting on Materials, Metallurgy, and Reactor Fuels scheduled to be held on February 22, 2007, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland has been postponed. Notice of this meeting was published on Wednesday, January 31, 2007 (72 FR 4537). Rescheduling of this meeting will be announced in a future **Federal Register** Notice.

*For future information contact:* Mr. Ralph Caruso, cognizant ACRS staff engineer (telephone 301/415–8065) between 7:15 a.m. and 5 p.m. (ET) or by e-mail *rxc@nrc.gov.*

Dated: February 8, 2007.

**David C. Fischer,**

*Acting Branch Chief, ACRS/ACNW.*

[FR Doc. E7–2620 Filed 2–14–07; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards (ACRS); Subcommittee Meeting on Materials, Metallurgy, and Reactor Fuels; Postponed

The ACRS Subcommittee meeting on Materials, Metallurgy, and Reactor Fuels scheduled to be held on Wednesday, February 21, 2007, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland has been postponed to Tuesday, March 6, 2007, 1 p.m. until the conclusion of business. Also, a portion of this meeting may be closed to discuss industry proprietary information applicable to this matter, pursuant to 5 U.S.C. 552b(c)(4).

All other items pertaining to this meeting remain the same as published previously in the **Federal Register** on Friday, February 2, 2007 (72 FR 5087).

*For future information contact:* Mr. Gary Hammer, cognizant ACRS staff engineer (telephone 301/415–7363) between 7:15 a.m. and 5 p.m. (ET) or by e-mail: *cgh@nrc.gov.*

Date: February 8, 2007.

**David C. Fischer,**

*Acting Branch Chief, ACRS.*

[FR Doc. E7–2622 Filed 2–14–07; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee On Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on March 8–10, 2007, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Wednesday, November 15, 2006 (71 FR 66561).

**Thursday, March 8, 2007, Conference Room T–2B3, Two White Flint North, Rockville, Maryland**

*8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman* (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

*8:35 a.m.–10:15 a.m.: Technical Basis Associated with the Proposed NRC Staff Action for Dealing with the Dissimilar Metal Weld Issue* (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff, their contractors, and the Nuclear Energy Institute regarding the technical basis for the proposed regulatory action for dealing with the dissimilar metal weld issue stemming from the Wolf Creek pressurizer weld flaws, as well as the industry activities associated with this matter.

**Note:** A portion of this session may be closed to discuss industry proprietary information applicable to this matter, pursuant to 5 U.S.C. 552b(c)(4).

*10:30 a.m.–12 noon: Proposed Revisions to Standard Review Plan (SRP) Sections* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding SRP Sections 15.0, Accident Analysis—Introduction, and 15.9, BWR Core Stability.

*1:30 p.m.–3:30 p.m.: Final Results of the Chemical Effects Head Loss Tests Related to the Resolution of the PWR Sump Performance Issues* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding final results of the chemical effects head loss tests in a pressurized water reactor (PWR) sump pool environment, and related matters.

*3:45 p.m.–5:15 p.m.: Technology Neutral Licensing Framework and Related Matters* (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the Technology Neutral Licensing Framework, and the Commission request in the November 8, 2006 Staff Requirements Memorandum that the ACRS provide its views to the Commission with respect to the staff's work on Technology Neutral Licensing Framework with the focus on ensuring the value of such an approach versus the development of a licensing framework for specific designs.

*5:30 p.m.–7 p.m.: Preparation of ACRS Reports* (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting, as well as a proposed ACRS report on the TRACE thermal-hydraulic system analysis code.

**Friday, March 9, 2007, Conference Room T–2B3, Two White Flint North, Rockville, Maryland**

*8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman* (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

*8:35 a.m.–9 a.m.: Proposed Revisions to Regulatory Guides and SRP Sections in Support of New Reactor Licensing* (Open)—The Committee will discuss and determine whether to review proposed revisions to certain regulatory guides and Standard Review Plan (SRP) Sections related to new reactor licensing.

*9 a.m.–9:45 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee* (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, including anticipated workload and member assignments.

*9:45 a.m.–10 a.m.: Reconciliation of ACRS Comments and Recommendations* (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

*10:15 a.m.–12 noon: Safeguards and Security Matters* (Closed) (Room T–8E8)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the research on mitigating strategies for new reactor designs.

**Note:** This session will be closed to protect information classified as National Security information as well as safeguards information pursuant to 5 U.S.C. 552b(c)(1) and (3).

*1:30 p.m.–6:30 p.m.: Preparation of ACRS Reports* (Open)—The Committee will discuss proposed ACRS reports.

**Saturday, March 10, 2007, Conference Room T–2B3, Two White Flint North, Rockville, Maryland**

*8:30a.m.–12:30 p.m.: Preparation of ACRS Reports* (Open)—The Committee will continue discussion of proposed ACRS reports.

*12:30 p.m.–1 p.m.: Miscellaneous* (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 2, 2006 (71 FR 58015). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that

appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) P.L. 92–463, I have determined that it will be necessary to close portions of this meeting to discuss industry proprietary information, pursuant to 5 U.S.C. 552b(c)(4) and to protect information classified as National Security information as well as safeguards information pursuant to 5 U.S.C. 552b(c)(1) and (3).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Sam Duraiswamy, Cognizant ACRS staff (301–415–7364), between 7:30 a.m. and 4 p.m., (ET).

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov*, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: February 9, 2007.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*

[FR Doc. E7–2669 Filed 2–14–07; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Sunshine Federal Register Notice

*Agency Holding the Meetings:* Nuclear Regulatory Commission.

*Date:* Weeks of February 19, 26, 2007.

*Place:* Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

*Status:* Public and Closed.

*Additional Matters To Be Considered:*

**Week of February 19, 2007**

*Wednesday, February 21, 2007*

9:30 a.m. Discussion of Security Issues (Closed–Ex. 1)

**Week of February 26, 2007—Tentative**

*Tuesday, February 27, 2007*

1:30 p.m. Discussion of Security Issues (Closed–Ex. 1) (Tentative)

* * * * *

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at 301–415–7041, TDD: 301–415–2100, or by e-mail at *DLC@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: February 12, 2007.

**Michelle Schroll,**

*Office of the Secretary.*

[FR Doc. 07–736 Filed 2–13–07; 12:43 pm]

BILLING CODE 7590–01–P

## PENSION BENEFIT GUARANTY CORPORATION

### Required Interest Rate Assumption for Determining Variable-Rate Premium for Single-Employer Plans; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of interest rates and assumptions.

**SUMMARY:** This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (*http://www.pbgc.gov*).

**DATES:** The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in February 2007. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in March 2007.

**FOR FURTHER INFORMATION CONTACT:** Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

**SUPPLEMENTARY INFORMATION:**

### Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining

a single-employer plan's variable-rate premium. Pursuant to the Pension Protection Act of 2006, for premium payment years beginning in 2006 or 2007, the required interest rate is the ''applicable percentage'' of the annual rate of interest determined by the Secretary of the Treasury on amounts invested conservatively in long-term investment grade corporate bonds for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year'').

On February 2, 2007 (at 72 FR 4955), the Internal Revenue Service (IRS) published final regulations containing updated mortality tables for determining current liability under section 412(l)(7) of the Code and section 302(d)(7) of ERISA for plan years beginning on or after January 1, 2007. As a result, in accordance with section 4006(a)(3)(E)(iii)(II) of ERISA, the ''applicable percentage'' to be used in determining the required interest rate for plan years beginning in 2007 is 100 percent.

The required interest rate to be used in determining variable-rate premiums for premium payment years beginning in February 2007 is 5.89 percent (i.e., 100 percent of the 5.89 percent composite corporate bond rate for January 2007 as determined by the Treasury).

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between March 2006 and February 2007.

| For premium payment years beginning in: | The required interest rate is: |
|---|---|
| March 2006 | 4.87 |
| April 2006 | 5.01 |
| May 2006 | 5.25 |
| June 2006 | 5.35 |
| July 2006 | 5.36 |
| August 2006 | 5.36 |
| September 2006 | 5.19 |
| October 2006 | 5.06 |
| November 2006 | 5.05 |
| December 2006 | 4.90 |
| January 2007 | 5.75 |
| February 2007 | 5.89 |

## Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in January 2007 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 12th day of February 2007.

**Vincent K. Snowbarger,**

*Interim Director, Pension Benefit Guaranty Corporation.*

[FR Doc. E7–2654 Filed 2–14–07; 8:45 am]

BILLING CODE 7709–01–P

## POSTAL REGULATORY COMMISSION

**[Docket No. MC2007–1; Order No. 3]**

## Negotiated Service Agreement

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice and order on new baseline negotiated service agreement case.

**SUMMARY:** This document establishes a docket for consideration of the Postal Service's request for approval of contract rates with Bank of America Corporation (Bank of America). It identifies key elements of the proposed agreement, which involves First-Class and Standard Mail letter rates, and addresses preliminary procedural matters.

**DATES:** Notices of intervention due March 5, 2007; prehearing conference: March 14, 2007 (10 a.m.).

**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*.

### Regulatory History

Capital One Services, Inc. Negotiated Service Agreement, 67 FR 61355 (September 30, 2002).

Negotiated Service Agreement Final Rule, 69 FR 7574 (February 18, 2004).

**SUPPLEMENTARY INFORMATION:** The Request of the United States Postal Service for a Recommended Decision on Classifications, Rates and Fees to Implement a Baseline Negotiated Service Agreement with Bank of America Corporation (Request) was filed with the Postal Regulatory Commission on February 7, 2007.[1] The negotiated service agreement is proffered as a new baseline negotiated service agreement. The Request includes six attachments.[2]

The Postal Service has identified Bank of America Corporation (Bank of America), along with itself, as parties to the negotiated service agreement. This identification serves as notice of intervention by Bank of America. It also indicates that Bank of America shall be considered a co-proponent, procedurally and substantively, of the Postal Service's Request during the Commission's review of the negotiated service agreement. Rule 191(b) [39 CFR 3001.191b]. An appropriate Bank of America Corporation Notice of Appearance and Filing of Testimony as Co-proponent, February 7, 2007, also has been filed.

In support of the Request, the Postal Service has filed Direct Testimony of Ali Ayub on Behalf of United States Postal Service, February 7, 2007 (USPS–T–1). Bank of America has separately filed Direct Testimony of Richard D. Jones on Behalf of Bank of America Corporation, February 7, 2007 (BAC–T–1). The Postal Service states that it intends to rely upon the testimony submitted by Bank of America in presentation of its direct case in accordance with rule 192(b) [39 CFR 3001.192b]. Request at 5. The Request has been assigned Docket No. MC2007–1.

The Postal Service's Request, the accompanying testimonies of witnesses Ayub (USPS–T–1) and Jones (BAC–T–1), and other related material are available for inspection at the Commission's docket section during regular business hours. They also can be accessed electronically, via the Internet, on the Commission's Web site (*http://www.prc.gov*).

### I. Bank of America Negotiated Service Agreement

The Postal Service proposes to enter into a three-year negotiated service agreement with Bank of America. The

[1] The procedures of the former Postal Rate Commission apply to this Request under 39 U.S.C. 3622(f) as established by the Postal Accountability and Enhancement Act, Pub. L. 109–435, 120 Stat. 3198 (2006). Section 3622(f) specifies, for the mail categories which are the subject of this Request, that: ''[p]roceedings initiated to consider a request for a recommended decision filed by the Postal Service during that 1-year [transition] period shall be completed in accordance with subchapter II of chapter 36 of this title and implementing regulations, as in effect before the date of enactment of this section.''

[2] Attachments A and B to the Request contain proposed changes to the Domestic Mail Classification Schedule and the associated rate schedules; Attachment C is a certification required by Commission rule 193(i) specifying that the cost statements and supporting data submitted by the Postal Service, which purport to reflect the books of the Postal Service, accurately set forth the results shown by such books; Attachment D is an index of Postal Service testimony; Attachment E is a compliance statement addressing satisfaction of various filing requirements; and Attachment F is a copy of the Negotiated Service Agreement.

negotiated service agreement provides performance-based incentives to encourage Bank of America to undertake certain mailing activities to reduce Postal Service costs associated with processing Bank of America's letter-rated First-Class Mail and Standard Mail. The agreement also encompasses mail entered into the system by or on behalf of Bank of America subsidiaries or affiliates. The agreement is described as a pure cost-savings agreement based on pay for performance rather than compliance with specific process changes.

The agreement requires multiple operational commitments from Bank of America: Implementing Four-State Barcode, OneCode ACS, CONFIRM, Seamless Acceptance, FAST and eDropship; barcoding of Courtesy and Business Reply Mail and Qualified Business Reply Mail; and waiver of physical return of certain First-Class Mail and Standard Mail in return for acceptance of electronic information.

The Postal Service agrees to pay rate discounts from otherwise established rates for improvements in address quality and mail processing based on actual mail volumes and performance. First-Class Mail discounts will be available for improvements in mail processing, reductions in return rates, and reductions in forwarding rates. Standard Mail discounts will be available for improvements in mail processing, and reductions in undeliverable-as-addressed rates. The discounts, in the form of refunds, will be calculated quarterly and are based on a percentage of the resulting cost savings to the Postal Service. Specific per-piece discounts based on overall percentage incremental improvements are described in the Request, Attachment B.

The Postal Service estimates it may benefit by $5.5 million, net of incentives, over the three-year life of the Negotiated Service Agreement. USPS–T–1 at 24. However, because the agreement is performance based, the actual value of the agreement can not be known with certainty until after the agreement has ended.

## II. Commission Response

*Applicability of the rules for baseline negotiated service agreements.* For administrative purposes, the Commission has docketed the instant filing as a request predicated on a baseline negotiated service agreement as described by rule 195 [39 CFR 3001.195].

*Representation of the general public.* In conformance with former section 3624(a) of title 39, the Commission designates Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate (OCA), to represent the interests of the general public in this proceeding. Pursuant to this designation, Ms. Dreifuss will direct the activities of Commission personnel assigned to assist her and, upon request, will supply their names for the record. Neither Ms. Dreifuss nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding.

*Intervention.* Those wishing to be heard in this matter are directed to file a notice of intervention on or before March 5, 2007. The notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site (*http://www.prc.gov*), unless a waiver is obtained for hardcopy filing. Rules 9(a) and 10(a) [39 CFR 3001.9a and 10a]. Notices should indicate whether participation will be on a full or limited basis, see rules 20 and 20a [39 CFR 3001.20 and 20a], and shall indicate if a hearing on this Request is desired.

*Prehearing conference.* A prehearing conference will be held March 14, 2007, at 10 a.m. in the Commission's hearing room. Participants are encouraged to immediately begin discovery once a notice of intervention is filed to begin developing issues for consideration. Participants shall be prepared to address the scheduling of additional discovery and any issue(s) that justify scheduling a hearing at the prehearing conference. The Commission strongly urges participants to file supporting written argument in advance of the prehearing conference in regard to the identification of any issue(s) that would indicate the need to schedule a hearing, or any other scheduling request. The Commission intends to resolve such issues shortly after the prehearing conference.

## Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket No. MC2007–1 to consider the Postal Service Request referred to in the body of this order.

2. The Commission will sit en banc in this proceeding.

3. Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate, is designated to represent the interests of the general public.

4. The deadline for filing notices of intervention is March 5, 2007.

5. A prehearing conference will be held March 14, 2007, at 10 a.m. in the Commission's hearing room.

6. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

**Steven W. Williams,**

*Secretary.*

[FR Doc. E7–2624 Filed 2–14–07; 8:45 am]

BILLING CODE 7710–FW–P

# SECURITIES AND EXCHANGE COMMISSION

## Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 23c–3, and Form N–23c–3, SEC File No. 270–373 OMB Control No. 3235–0422

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350 *et. seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 23c–3 (17 CFR 270.23c–3) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) is entitled: ''Repurchase of Securities of Closed-End Companies.'' The rule permits certain closed-end investment companies (''closed-end funds'' or ''funds'') periodically to offer to repurchase from shareholders a limited number of shares at net asset value. The rule includes several reporting and recordkeeping requirements. The fund must send shareholders a notification that contains specified information each time the fund makes a repurchase offer (on a quarterly, semi-annual, or annual basis, or for certain funds, on a discretionary basis not more often than every two years). The fund also must file copies of the shareholder notification with the Commission (electronically through the Commission's Electronic Data Gathering, Analysis, and Retrieval System (''EDGAR'')) attached to Form N–23c–3 (17 CFR 274.221), a cover sheet that provides limited information about the fund and the type of offer the fund is making.[1] The fund must

[1] Form N–23c–3 requires the fund to state its registration number, its full name and address, the date of the accompanying shareholder notification, and the type of offer being made (periodic, discretionary, or both).

describe in its annual report to shareholders the fund's policy concerning repurchase offers and the results of any repurchase offers made during the reporting period. The fund's board of directors must adopt written procedures designed to ensure that the fund's investment portfolio is sufficiently liquid to meet its repurchase obligations and other obligations under the rule. The board periodically must review the composition of the fund's portfolio and change the liquidity procedures as necessary. The fund also must file copies of advertisements and other sales literature with the Commission as if it were an open-end investment company subject to section 24 of the Investment Company Act (15 U.S.C. 80a–24) and the rules that implement section 24.[2]

The requirement that the fund send a notification to shareholders of each offer is intended to ensure that a fund provides material information to shareholders about the terms of each offer, which may differ from previous offers on such matters as the maximum amount of shares to be repurchased (the maximum repurchase amount may range from 5% to 25% of outstanding shares). The requirement that copies be sent to the Commission is intended to enable the Commission to monitor the fund's compliance with the notification requirement. The requirement that the shareholder notification be attached to Form N–23c–3 is intended to ensure that the fund provides basic information necessary for the Commission to process the notification and to monitor the fund's use of repurchase offers. The requirement that the fund describe its current policy on repurchase offers and the results of recent offers in the annual shareholder report is intended to provide shareholders current information about the fund's repurchase policies and its recent experience. The requirement that the board approve and review written procedures designed to maintain portfolio liquidity is intended to ensure that the fund has enough cash or liquid securities to meet its repurchase obligations, and that written procedures are available for review by shareholders and examination by the Commission. The requirement that the fund file advertisements and sales literature as if it were an open-end investment company is intended to facilitate the review of these materials by the Commission or the NASD to prevent incomplete, inaccurate, or misleading disclosure about the special characteristics of a closed-end fund that makes periodic repurchase offers.

Complying with the collection of information requirements of the rule is mandatory only for those funds that rely on the rule in order to repurchase shares of the fund. The information provided to the Commission on Form N–23c–3 will not be kept confidential.

The Commission staff estimates that approximately 34 funds make use of rule 23c–3, and that on average a fund spends approximately 126 hours annually in complying with the requirements of the rule and Form N–23c–3. The Commission staff therefore estimates the total annual burden of the rule's and form's paperwork requirements to be 4284 hours.

*Written comments are invited on:* (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson 6432 General Green Way, Alexandria, Virginia 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: February 6, 2007.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–2613 Filed 2–14–07; 8:45 am]

BILLING CODE 8011–01–P

[2] Rule 24b–3 under the Investment Company Act (17 CFR 270.24b–3), however, would generally exempt the fund from that requirement when the materials are filed instead with the NASD, as nearly always occurs under NASD procedures, which apply to the underwriter of every fund.

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 30e–1, SEC File No. 270–21 OMB Control No. 3235–0025

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

The collection of information is entitled: ''Rule 30e–1 under the Investment Company Act of 1940, Reports to Stockholders of Management Companies.'' Section 30(e) (15 U.S.C. 80a–29(e)) of the Investment Company Act of 1940 (''Investment Company Act'') (15 U.S.C. 80a–1 *et seq.*) requires a registered investment company (''fund'') to transmit to its shareholders, at least semi-annually, reports containing information and financial statements as the Commission may prescribe. Among other requirements, Rule 30e–1 (17 CFR 270.30e–1) under the Investment Company Act directs funds to include in the shareholder reports the information that is required by the fund's registration statement. Failure to require the collection of this information would seriously impede the amount of current information available to shareholders and the public about funds and would prevent the Commission from implementing the regulatory program required by statute. The estimated annual number of respondents providing shareholder reports under Rule 30e–1 is 4,040. The proposed frequency of response is semi-annual. The estimate of the total annual reporting burden of the collection of information is approximately 145.8 hours per shareholder report and the total estimated annual burden for the industry is 1,178,064 hours (145.8 hours per report × 2 reports × 4,040 funds). Providing the information required by Rule 30e–1 is mandatory. Responses will not be kept confidential. Estimates of the burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

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

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, *or e-mail to:*

*David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312, *or send an e-mail to: PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: February 5, 2007.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–2614 Filed 2–14–07; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon written request, copies available from:* Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

*Extension:* Form N–Q; SEC File No. 270–519; OMB Control No. 3235–0578

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

• Form N–Q—Quarterly Schedule of Portfolio Holdings of Registered Management Investment Company

Form N–Q (17 CFR 249.332 and 274.130) is a reporting form under Sections 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), in addition to the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act'') that requires a fund to file its complete portfolio schedule as of the end of its first and third fiscal quarters with the Commission. Form N–Q contains collection of information requirements. The respondents to this information collection will be management investment companies subject to Rule 30e–1 under the Investment Company Act registering with the Commission on Forms N–1A, N–2, or N–3. Approximately 3,237 entities, including 8,963 portfolios, are required to file Form N–Q, which is estimated to require an average of 21 hours per portfolio per year to complete. The estimated annual burden of complying with the filing requirement is approximately 188,223 hours. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. The collection of information under Form N–Q is mandatory. The information provided by the Form is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312, or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

February 5, 2007.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–2629 Filed 2–14–07; 8:45 am]

BILLING CODE 8010–01–P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

*Federal Register Citation of Previous Announcement:* [To be Published].

*Status:* Closed meeting.

*Place:* 100 F Street, NE., Washington, DC.

*Announcement of Additional Meeting:* Additional Meeting (Week of February 12, 2007).

A Closed Meeting has been scheduled for Tuesday, February 13, 2007 at 12:30 p.m.

Commissioners and certain staff members who have an interest in the matter will attend the Closed Meeting.

The General Counsel of the Commission, or his designee, has certified that, in his opinion as set forth in 5 U.S.C. 552b(c)(10) and 17 CFR 200.402(a)(10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Campos as duty officer, voted to consider the item listed for the closed meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Tuesday, February 13, 2007 will be:

An adjudicatory matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: February 12, 2007.

**Nancy M. Morris,**

*Secretary.*

[FR Doc. 07–725 Filed 2–13–07; 11:06 am]

BILLING CODE 8010–01–P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of February 20, 2007:

A closed meeting will be held on Thursday, February 22, 2007 at 2 p.m.

Commissioners, Counsels to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10) permit consideration of the scheduled matters at the closed meeting.

Commissioner Campos, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, February 22, 2007 will be:

Formal orders of investigation;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

Other matters relating to enforcement proceeding; and

Resolution of a litigation claim.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been

added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: February 13, 2007.

**Nancy M. Morris,**

*Secretary.*

[FR Doc. 07–726 Filed 2–13–07; 11:05 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–55260; File No. SR–BSE–2007–04]**

## Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Time Period for the Position Limits Pilot Program

February 8, 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 January 31, 2007, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by BSE. The Exchange has filed the proposal as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

BSE proposes to amend Chapter III, Section 7 (Position Limits) of the Rules of the Boston Options Exchange (''BOX''), an options trading facility of BSE, to extend its current pilot program to increase the standard position and exercise limits for equity option contracts and options on the Nasdaq-100 Index Tracking Stock (''QQQQ'') (''Pilot Program''). The text of the proposed rule change is available at BSE, the Commission's Public Reference Room, and *www.bostonstock.com*.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, BSE 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

The Pilot Program provides for an increase to the standard position and exercise limits for equity option contracts and for options on QQQQs for a six-month period.[5] Specifically, the Pilot Program increased the applicable position and exercise limits for equity options and options on the QQQQ to the following levels:

| Current equity option contract limit [6] | Pilot program equity option contract limit |
|---|---|
| 13,500 contracts. | 25,000 contracts. |
| 22,500 contracts. | 50,000 contracts. |
| 31,500 contracts. | 75,000 contracts. |
| 60,000 contracts. | 200,000 contracts. |
| 75,000 contracts. | 250,000 contracts. |
| **Current QQQQ option contract limit** | **Pilot program QQQQ option contract limit** |
| 300,000 contracts. | 900,000 contracts. |

[6] Except when the Pilot Program is in effect.

The Exchange believes that extending the Pilot Program for six months is warranted due to positive feedback from members and for the reasons cited in the original rule filing that proposed the adoption of the Pilot Program.[7] In addition, BOX has not encountered any problems or difficulties relating to the Pilot Program since its inception. For these reasons, the BSE requests that the Commission extend the Pilot Program for an additional six months, through and including September 1, 2007.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objective of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade and 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 comments on the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[12] However, Rule 19b–4(f)(6)(iii) [13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is

[5] The Pilot Program, which began on March 3, 2005, was extended on August 15, 2005, February 22, 2006, and August 30, 2006. *See* Securities Exchange Act Release Nos. 51317 (March 3, 2005), 70 FR 12254 (March 11, 2005) (SR–BSE–2005–10) (''Pilot Program Notice''); 52264 (August 15, 2005), 70 FR 48992 (August 22, 2005) (SR–BSE–2005–37); 53347 (February 22, 2006), 71 FR 10573 (March 1, 2006) (SR–BSE–2006–07); and 54388 (August 30, 2006), 71 FR 52833 (September 7, 2006) (SR–BSE–2006–32).

[7] *See* Pilot Program Notice, *supra* note 5.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. BSE has satisfied the five-day pre-filing requirement.

[13] *Id.*

consistent with the protection of investors and in the public interest because it will allow the Pilot Program to continue uninterrupted.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–BSE–2007–04 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BSE–2007–04. 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 will also be available for inspection and copying at the principal office of BSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BSE–2007–04 and should be submitted on or before March 8, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–2608 Filed 2–14–07; 8:45 am]

**BILLING CODE 8011–01–P**

[14] For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–55263; File No. SR–CBOE–2005–111]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Multiple Representation Exception Procedures

February 9, 2007.

On December 16, 2005, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt additional exceptions to the prohibition on multiple representation by Market Makers contained in CBOE Rule 6.55.[3] On October 17, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on December 6, 2006.[4] The Commission received no comments regarding the proposal.

Rule 6.55 is intended to ensure that Market Makers are not disproportionately represented in the trading crowd. The general prohibition of Rule 6.55 provides, in relevant part, that no Market-Maker shall enter or be present in a trading crowd while a Floor Broker present in the trading crowd is holding an order on behalf of the Market Maker's individual account or an order initiated by the Market-Maker for an account in which the Market-Maker has an interest.[5]

The proposed rule change would add to the Rule's current exceptions by permitting a Market-Maker to enter or be present in a trading crowd in which a Floor Broker is present who holds either a solicited order on behalf of the Market Maker's individual or joint account or a solicited order initiated by the Market-Maker for an account in which the Market Maker has an interest—provided that the Market-Maker advises the Floor Broker of his or her intention to enter or be present in the trading crowd and also refrains from trading in-person on the same trade as the original order.[6] The proposed rule change would further permit a Market-Maker to enter or be present in a trading crowd in which a Floor Broker is present who holds an order on behalf of the Market Maker's individual account or an order the Market Maker initiated for an account in which the Market Maker has an interest (*i.e.*, even when that order is not a solicited order)—provided that the Market-Maker advises the Floor Broker of his or her intention to enter or be present in the trading crowd and also refrains from trading in-person on the same trade as the order being represented by the Floor Broker.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with Section 6(b)(5) of the Act,[7] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.[8]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed rule change would also make revisions to certain procedures in Rule 6.55 that have become outdated.

[4] *See* Securities Exchange Act Release No. 54823 (November 28, 2006), 71 FR 70810.

[5] Rule 6.55 also provides that regulatory circulars concerning joint accounts should be consulted in connection with procedures governing the simultaneous presence in the trading crowd of participants in and orders for the same joint account. These circulars, among other things, extend the prohibition against multiple representation to cover joint account activity in certain circumstances.

[6] In the case of joint accounts, it would be the responsibility of the Market-Maker to ascertain whether solicited orders for his or her joint account had already been entered with a Floor Broker in a trading crowd prior to his or her trading for the joint account in-person.

[7] 15 U.S.C. 78f(b)(5).

[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

The Commission notes that, under each of the proposed new exceptions, the Market Maker would be required to make the Floor Broker aware of his or her intention to enter or be present in the trading crowd, and the Market Maker would also be required to refrain from trading in-person on the same trade as the relevant order being represented by the Floor Broker. The Commission believes that these provisions are appropriately designed to prevent a Market-Maker from being disproportionately represented in the trading crowd, consistent with the original purpose of the prohibition in CBOE Rule 6.55. The Commission, therefore, believes that the proposed rule change is consistent with the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–CBOE–2005–111), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E7–2610 Filed 2–14–07; 8:45 am]

**BILLING CODE 8010–01–P**

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–55262; File No. SR–CBOE–2007–09]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto to Amend CBOE Rules Relating to CBOE's Determination to Trade Options on the NASDAQ 100 Index (NDX) on the Hybrid 2.0 Platform and Options on the S&P 100 (XEO) on the Hybrid Trading System

February 8, 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 January 26, 2007, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Exchange filed Amendment No. 1 to the proposed rule change on February 7, 2007. 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.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend its rules relating to CBOE's determination to trade options on the NASDAQ 100 Index (NDX) on the Hybrid 2.0 Platform and options on the S&P 100 (XEO) on the Hybrid Trading System. The text of the proposed rule change is available on CBOE's Web site (*www.cboe.org/Legal*), at the CBOE's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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

The purpose of this rule change is to amend CBOE Rule 8.3 in connection with CBOE's determination to trade options on the NASDAQ 100 Index (NDX) on the Hybrid 2.0 Platform.[5] Additionally, CBOE proposes to amend Rule 8.3 in connection with CBOE's determination to trade options on the S&P 100 (XEO) on the Hybrid Trading System.

NDX currently has an appointment cost of 1.0. CBOE intends to lower NDX's appointment cost to .50 when NDX trades on the Hybrid 2.0 Platform. As a result, NDX will be classified in Tier AA. CBOE intends to trade NDX on the Hybrid 2.0 Platform beginning on February 6, 2007.

[5] CBOE Rule 1.1(aaa) defines Hybrid Trading System and Hybrid 2.0 Platform.

CBOE proposes to amend Rule 8.3(c)(ii) to specifically reference XEO as an option class trading on the Hybrid Trading System.[6] Presently, XEO and options on the S&P 100 (OEX) collectively have an appointment cost of 1.0. CBOE proposes to maintain the same appointment cost when XEO trades on the Hybrid Trading System. CBOE intends to trade XEO on the Hybrid Trading System beginning on January 30, 2007.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act,[8] which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and subparagraph (f)(6) of Rule 19b–4[10] thereunder because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission

[6] Reference to XEO will also be deleted in the table listing the non-Hybrid option classes and their related appointment costs. (*See* Rule 8.3(c)(iv).)

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

written notice of its intention to file the proposed rule change at least five business days prior to filing. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Under Rule 19b–4(f)(6) of the Act,[11] the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative date, so that the proposal may take effect on January 30, 2007 for XEO options and on February 6, 2007 for NDX options. The Exchange believes that the proposed rule change does not raise any new regulatory issues. The Commission agrees and, consistent with the protection of investors and the public interest, has determined to waive the 30-day operative date, which renders the proposal effective on January 30, 2007 for XEO options and on February 6, 2007 for NDX options.[12]

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2007–09 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2007–09. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2007–09 and should be submitted on or before March 8, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

**Nancy M. Morris,**

*Secretary.*

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[11] *Id.* Rule 19b–4(f)(6) also requires the self-regulatory organization to give the Commission notice of its intention to file the proposed rule change, along with a brief description and text of the proposed rule change, at leave five business days prior to the date of filing the proposed rule change, or such shorter time designated by the Commission. CBOE has satisfied the five-day prefiling requirement.

[12] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–55269; File No. SR–NASDAQ–2006–050]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change as Modified by Amendment No. 3 Thereto Adopting Generic Listing Standards for Exchange-Traded Funds Based on International or Global Indexes or Indexes Described in Exchange Rules Previously Approved by the Commission as Underlying Benchmarks for Derivative Securities

February 9, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 28, 2006, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by Nasdaq. On November 28, 2006, Nasdaq filed Amendment No. 1 to the proposal. On January 29, 2007, Nasdaq filed Amendment No. 2 to the proposal. On February 9, 2007, Nasdaq filed Amendment No. 3 to the proposal. This order provides notice of the proposal, as amended, and approves the proposal on an accelerated basis.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to revise its listing standards to include generic listing standards for series of portfolio depository receipts (''PDRs'') and index fund shares (''IFSs'') (PDRs and IFSs together referred to as ''exchange-traded funds'' or ''ETFs'') that are based on international or global indexes or on indexes described in exchange rules that have been previously approved by the Commission for the trading of ETFs or other specified index-based securities. The text of the proposed rule change is available at Nasdaq, from the Commission's Public Reference Room, and on Nasdaq's Web site (*http://www.nasdaq.com*).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Nasdaq 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

Nasdaq proposes to revise its listing standards to include generic listing standards for series of PDRs and IFSs that are based on international or global indexes or on indexes described in rules previously approved by the Commission for the trading of ETFs or other specified index-based securities.

This proposal would enable Nasdaq to list and trade ETFs pursuant to Rule 19b–4(e) under the Exchange Act.[3] Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4, if the Commission has approved, pursuant to Section 19(b) of the Exchange Act, the trading rules of the SRO procedures and listing standards for the product class that would include the new derivatives securities product, and the SRO has a surveillance program for the product class.[4]

Background

Exchange-Traded Funds

Currently, Nasdaq Rule 4420(i) allows for the listing and trading on Nasdaq of PDRs. PDRs represent interests in a unit investment trust registered under the Investment Company Act of 1940[5] (''1940 Act'') that holds the securities that comprise an index or portfolio. Nasdaq Rule 4420(j) provides standards for listing IFSs, which are securities issued by an open-end management investment company registered under the 1940 Act and based on a portfolio of stocks that seeks to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic stock index. Pursuant to these rules, PDRs and IFSs, eligible for listing on Nasdaq, must be issued in a specified aggregate minimum number in return for a deposit of specified securities and/or a cash amount, with a value equal to the next determined net asset value (''NAV''). When aggregated in the same specified minimum number, PDRs or IFSs must be redeemed by the issuer for the securities and/or cash, with a value equal to the next determined NAV. The NAV is calculated once a day after the close of the regular trading day.

To meet the investment objective of providing investment returns that correspond to the price and the dividend and yield performance of the underlying index, an ETF may use a ''replication'' strategy or a ''representative sampling'' strategy with respect to the ETF portfolio.[6] An ETF using a replication strategy will invest in each stock of the underlying index in about the same proportion as that stock is represented in the index itself. An ETF using a representative sampling strategy will generally invest in a significant number but not all of the component securities of the underlying index, and will hold stocks that, in the aggregate, are intended to approximate the full index in terms of key characteristics, such as price/earnings ratio, earnings growth, and dividend yield. In addition, an ETF portfolio may be adjusted in accordance with changes in the composition of the underlying index or to maintain compliance with requirements applicable to a regulated investment company under the Internal Revenue Code.

Generic Listing Standards for Exchange-Traded Funds

Nasdaq currently does not have generic listing standards for ETFs that are based on international or global indexes or on previously approved indexes, but systems operated by Nasdaq and its affiliates currently trade such ETFs on an over-the-counter basis as facilities of NASD. Nasdaq proposes that after Nasdaq begins to operate as an exchange for trading securities not listed on Nasdaq, it would continue trading such ETFs pursuant to unlisted trading privileges (''UTP'') in much the same manner as they are being traded currently. Nasdaq also proposes to makes its facilities available for listing these ETFs.

The Commission recently approved generic listing standards of the American Stock Exchange pursuant to Rule 19b–4(e) under the Exchange Act for ETFs based on international or global indexes, as well as on indexes described in exchange rule changes that have been previously approved by the Commission under Section 19(b)(2) of the Exchange Act for the trading of ETFs or other index-based securities. Nasdaq believes that approval of its comparable generic listing standards and applying Rule 19b–4(e) should fulfill the intended objective of that rule by allowing those ETFs that currently trade on Nasdaq systems to continue trading on Nasdaq as an exchange, without the need for the public comment period and Commission approval. The proposed rules have the potential to reduce the time frame for bringing ETFs to market, thereby reducing the burdens on issuers and other market participants. The failure of a particular ETF to comply with the proposed generic listing standards under Rule 19b–4(e) would not, however, preclude Nasdaq from submitting a separate filing pursuant to Section 19(b)(2) requesting Commission approval to list a particular ETF.

Requirements for Listing and Trading ETFs Based on International and Global Indexes or Previously Approved Indexes

ETFs that are listed pursuant to the proposed generic listing standards or that are traded UTP would be traded, in all other respects, under Nasdaq's existing trading rules and procedures that apply to ETFs and would be covered under Nasdaq's surveillance program for ETFs. To list a PDR or an IFS pursuant to the proposed generic listing standards for international and global indexes, the index underlying the PDR or IFS must satisfy all the conditions contained in the proposed amendments to Rule 4420(i) (for PDRs) or Rule 4420(j) (for IFSs). As with the existing generic standards for ETFs based on domestic indexes, these generic listing standards are intended to ensure that stocks with substantial market capitalization and trading volume account for a substantial portion of the weight of an index or portfolio. While the standards in this proposal are based on the standards contained in the current generic listing standards for ETFs based on domestic indexes, they have been adapted as appropriate to apply to international and global indexes.

[3] 17 CFR 240.19b–4(e).

[4] When relying on Rule 19b–4(e), the SRO must submit Form 19b–4(e) to the Commission within five business days after it begins trading the new derivative securities products. *See* 17 CFR 240.19b–4(e)(2)(ii).

[5] 15 U.S.C. 80a.

[6] In either case, an ETF, by its terms, may be considered invested in the securities of the underlying index to the extent the ETF invests in sponsored American Depository Receipts (''ADRs''), Global Depository Receipts (''GDRs''), or European Depository Receipts (''EDRs'') that trade on exchanges with last-sale reporting representing securities in the underlying index.

As proposed, the definition section of each of Rule 4420(i) and (j) would be revised to include definitions of U.S. Component Stock and Non-U.S. Component Stock. These new definitions would provide the basis for the standards for indexes with either domestic or international stocks, or a combination of both. A ''Non-U.S. Component Stock'' would mean an equity security: (1) That is not registered under Section 12(b) or 12(g) of the Exchange Act;[7] (2) that is issued by an entity that is not organized, domiciled, or incorporated in the United States; and (3) that is issued by an entity that is an operating company (including a real estate investment trust (REIT) or income trust, but excluding an investment trust, unit trust, mutual fund, or derivative). This definition is designed to create a category of component stocks that are issued by companies that are not based in the United States, are not subject to oversight through Commission registration, and would include sponsored GDRs and EDRs. A ''U.S. Component Stock'' would mean an equity security that is registered under Section 12(b) or 12(g) of the Exchange Act or an ADR, the underlying equity security of which is registered under Section 12(b) or 12(g) of the Exchange Act. An ADR with an underlying equity security that is registered pursuant to the Exchange Act is considered a U.S. Component Stock because the issuer of that security is subject to Commission jurisdiction and must comply with Commission rules.

Nasdaq proposes that, to list a PDR or an IFS based on an international or global index or portfolio pursuant to the generic listing standards, such index or portfolio must meet the following criteria:

- Component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each shall have a minimum market value of at least $100 million;
- Component stocks representing at least 90% of the weight of the index or portfolio each shall have a minimum worldwide monthly trading volume during each of the last six months of at least 250,000 shares;
- The most heavily weighted component stock may not exceed 25% of the weight of the index or portfolio and the five most heavily weighted component stocks may not exceed 60% of the weight of the index or portfolio;
- The index or portfolio shall include a minimum of 20 component stocks; and
- Each U.S. Component Stock in the index or portfolio shall be listed on a national securities exchange and an NMS stock as defined in Rule 600 of Regulation NMS under the Exchange Act, and each Non-U.S. Component Stock in the index or portfolio shall be listed on an exchange that has last-sale reporting.

Nasdaq believes that these proposed standards are reasonable for international and global indexes, and, when applied in conjunction with the other listing requirements, would result in the listing and trading on Nasdaq of ETFs that are sufficiently broad-based in scope and not readily susceptible to manipulation. Nasdaq also believes that the proposed standards would result in ETFs that are adequately diversified in weighting for any single security or small group of securities to significantly reduce concerns that trading in an ETF based on an international or global index could become a surrogate for the trading of securities not registered in the United States.

Nasdaq further notes that, while these standards are similar to those for indexes that include only U.S. Component Stocks, they differ in certain important respects and are generally more restrictive, reflecting greater concerns over portfolio diversification with respect to ETFs investing in components that are not individually registered with the Commission. First, in the proposed standards, component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each shall have a minimum market value of at least $100 million, compared to a minimum market value of at least $75 million for indexes with only U.S. Component Stocks.[8] Second, in the proposed standards, the most heavily weighted component stock cannot exceed 25% of the weight of the index or portfolio, in contrast to a 30% standard for an index or portfolio comprised of only U.S. Component Stocks. Third, in the proposed standards, the five most heavily weighted component stocks shall not exceed 60% of the weight of the index or portfolio, compared to a 65% standard for indexes comprised of only U.S. Component Stocks. Fourth, the minimum number of stocks in the proposed standards is 20, in contrast to a minimum of 13 in the standards for an index or portfolio with only U.S. Component Stocks. Finally, the proposed standards require that each Non-U.S. Component Stock included in the index or portfolio be listed and traded on an exchange that has last-sale reporting.

Nasdaq also proposes to modify Rules 4420(i) and (j) to require that the index value for an ETF listed pursuant to the proposed standards for international and global indexes be widely disseminated by one or more major market data vendors at least every 60 seconds during the time when the ETF shares trade on Nasdaq. If the index value does not change during some or all of the period when trading is occurring on Nasdaq, the last official calculated index value must remain available throughout Nasdaq's trading hours. In contrast, the index value for an ETF listed pursuant to the existing standards for domestic indexes must be disseminated at least every 15 seconds during the trading day. This modification reflects limitations, in some instances, on the frequency of intra-day trading information with respect to Non-U.S. Component Stocks and that, in many cases, trading hours for overseas markets overlap only in part, or not at all, with Nasdaq's trading hours.

In addition, Rules 4420(i) and (j) would be modified to define the term ''Intraday Indicative Value'' (''IIV'') as the estimate of the value of a share of each ETF that is updated at least every 15 seconds during regular market hours and during any pre-market trading session for the ETF.[9] Nasdaq also proposes to clarify in these rules that the IIV would be updated at least every 15 seconds during regular market hours and during any pre-market trading session for the ETF to reflect changes in the exchange rate between the U.S. dollar and the currency in which any component stock is denominated. If the IIV does not change during some or all of the period when trading is occurring on Nasdaq, then the last official calculated IIV must remain available throughout Nasdaq's trading hours.

Nasdaq is proposing that it may designate an ETF for trading during its pre-market session and/or its post-market session as long as the index value and IIV dissemination requirements of Nasdaq Rules 4420(i)(3)(B)(iii) and 4420(i)(3)(C) and 4420(j)(3)(B)(iii) and 4420(j)(3)(C) are met. If there is no overlap with the trading hours of the primary market trading the underlying components of an ETF, Nasdaq may designate the ETF for pre-market trading as long as the last

[7] 15 U.S.C. 78*l*(b) or (g).

[8] Market value is calculated by multiplying the total shares outstanding by the price per share of the component stock.

[9] Nasdaq's regular market hours are 9:30 a.m. to 4 p.m. or 4:15 p.m. Eastern Time. Its pre-market session begins at 7 a.m. Eastern Time, and its post-market session ends at 8 p.m. Eastern Time.

official calculated IIV remains available. Although the IIV does not need to be calculated during Nasdaq's current post-market session, the last official calculated IIV must also remain available during such post-market trading session.

Nasdaq is also proposing to add provisions regarding the creation and redemption process for ETFs and compliance with federal securities laws for ETFs listed pursuant to the new generic listing standards. These new provisions would require that the statutory prospectus or the application for exemption from provisions of the 1940 Act for the ETF being listed pursuant to these new standards must state that the ETF must comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933.

Nasdaq also proposes to include, in the generic standards for the listing of PDRs and IFSs, indexes that have been approved by the Commission in connection with the listing of options, PDRs, IFSs, index-linked exchangeable notes, or index-linked securities. Nasdaq believes that the application of that standard to ETFs is appropriate because the underlying index would have been subject to detailed and specific Commission review in the context of the approval of listing of those other derivatives. This new generic standard would be limited to stock indexes and would require that each component stock be either: (1) A U.S. Component Stock that is listed on a national securities exchange and is an NMS stock as defined in Rule 600 of Regulation NMS; or (2) a Non-U.S. Component Stock that is listed and traded on an exchange that has last-sale reporting.

Nasdaq represents that its surveillance procedures are adequate to properly monitor the trading of the PDRs and IFSs that would be listed pursuant to the proposed new listing standards or traded on a UTP basis. Specifically, Nasdaq would rely on its existing surveillance procedures governing PDRs and IFSs. Nasdaq has a general policy prohibiting the distribution of material, non-public information by its employees. It should also be noted that, as provided by existing Nasdaq Rule 4420, Nasdaq would commence delisting proceedings for an ETF if the value of the underlying index or portfolio is no longer calculated or available.

Nasdaq also proposes to modify the initial and continued listing standards relating to disseminated information relating to ETFs to formalize in the rules existing best practices for providing equal access to material information about the value of ETFs. Prior to approving an ETF for listing, Nasdaq would obtain a representation from the ETF issuer that the NAV per share would be calculated daily and made available to all market participants at the same time. With regard to trading halts, the proposed rules specifically set out that if the IIV or the index value applicable to an ETF that Nasdaq lists is not being disseminated as required, Nasdaq may halt trading during the day in which the interruption to the dissemination of the IIV or the index value occurs. If the interruption to the dissemination of the IIV or the index value persists past the trading day in which it occurred, Nasdaq would halt trading no later than the beginning of the trading day following the interruption. The rule change would also include language providing that Nasdaq has discretion to halt trading in a series of PDRs or IFSs based on a consideration of the following factors: (1) Trading in securities comprising the underlying index applicable to that series has been halted in the primary market(s); (2) the extent to which trading has ceased in securities underlying the index; or (3) the presence of other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.[10]

With respect to PDRs, IFSs, and other ''Derivative Securities Products'' [11] that Nasdaq trades on a UTP basis, Nasdaq is adopting a new trade halt provision to reflect the scope of Nasdaq's deference to trading halts called by the listing market when a ''Required Value'' relating to the product is not being disseminated. The rule would define Required Value as: (1) The value of any index underlying a Derivative Securities Product; and (2) the indicative optimized portfolio value, intraday indicative value, or other comparable estimate of the value of a share of a Derivative Securities Product updated regularly during the trading day.

If a Derivative Securities Product begins trading on Nasdaq in its Pre-Market Session [12] and subsequently a temporary interruption occurs in the calculation or wide dissemination of an applicable Required Value, Nasdaq may continue to trade the Derivative Securities Product for the remainder of the Pre-Market Session. During Nasdaq's Regular Market Session,[13] if a temporary interruption occurs in the calculation or wide dissemination of an applicable Required Value with respect to a Derivative Securities Product that Nasdaq trades pursuant to UTP, Nasdaq, upon notification by the listing market of a halt due to such temporary interruption, also shall immediately halt trading in the Derivative Securities Product on its market.

If an applicable Required Value continues not to be calculated or widely disseminated after the close of the Regular Market Session, Nasdaq may trade the Derivative Securities Product in its Post-Market Session [14] only if the listing market traded the Derivative Securities Product until the close of its regular trading session without a halt. If an applicable Required Value continues not to be calculated or widely disseminated as of the beginning of the Pre-Market Session on the next trading day, Nasdaq shall not commence trading of the Derivative Securities Product in the pre-market session that day. If an interruption in the calculation or wide dissemination of a Required Value continues, Nasdaq may resume trading in the Derivative Securities Product only if calculation and wide dissemination of the applicable Required Value resumes or trading in the Derivative Securities Product resumes in the listing market.

Nasdaq is also amending Rule 4420 to stipulate that, as provided by

[10] Nasdaq notes that the new language is reflective of Nasdaq's existing policies with regard to trading halts of ETFs listed on Nasdaq, as discussed in the predecessor NASD rule change to establish listing standards for ETFs. In particular, Nasdaq's general policy has been to halt trading in an ETF listed on Nasdaq when securities accounting for 20% or more of the value of the underlying index are halted or suspended. *See* Securities Exchange Act Release No. 45920 (May 13, 2002), 67 FR 35605 (May 20, 2002) (SR–NASD–2002–45).

[11] The term ''Derivative Securities Product'' is defined to include a series of PDRs, IFSs, or Trust Issued Receipts (as defined in Nasdaq Rule 4420), a series of Commodity-Based Trust Shares (as defined in Nasdaq Rule 4630), securities representing interests in unit investment trusts, investment companies, or commodity pools, or securities representing interests in partnerships that invest in any combination of futures contracts, options on futures contracts, forward contracts, commodities, and/or securities.

[12] The rule defines the ''Pre-Market Session'' as the trading session for that begins at 7 a.m. and continues until 9:30 a.m. Eastern Time.

[13] The rule defines the ''Regular Market Session'' as the trading session that runs from 9:30 a.m. to 4 or 4:15 p.m. Eastern Time.

[14] The rule defines the ''Post-Market Session'' as the trading session for UTP trading that begins at 4 p.m. or 4:15 p.m., and that continues until 8 p.m. Eastern Time.

Commission Rule 12f–5,[15] Nasdaq may extend unlisted trading privileges to any security, such as PDRs or IFSs, for which Nasdaq has in effect rules providing for transactions in such class or type of security. Provisions of Rule 4420 that govern trading hours and surveillance procedures, and that relate to information circulars and prospectus delivery, also apply to securities traded on a UTP basis (as do applicable trade halt provisions of Rule 4120). Nasdaq does not, however, apply quantitative listing standards to securities traded on a UTP basis. Accordingly, language in Rule 4420(l) that could be read to require unlisted securities to meet Nasdaq's quantitative listing standards for Trust Issued Receipts in order to trade on a UTP basis is being deleted.

Proposed rules 4420(i)(3)(B)(iv) and (j)(3)(B)(iv) would be added to make sure that an entity that advises index providers or calculators and related entities has in place procedures designed to prevent the use and dissemination of material non-public information regarding the index underlying the ETF. Finally, Nasdaq is proposing several minor and clarifying changes to Rules 4120 and 4420, such as deletion of certain redundant language, correction of typographical errors, and clarification of the hours during which ETFs are eligible to trade.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Exchange Act,[16] in general, and with Section 6(b)(5) of the Exchange Act,[17] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to 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*

Nasdaq does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were neither solicited nor received.

[15] 17 CFR 240.12f–5.

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(5).

**III. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange 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–NASDAQ–2006–050 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–NASDAQ–2006–050. 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 Nasdaq. 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–NASDAQ–2006–050 and should be submitted on or before March 8, 2007.

**IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change**

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[18] In particular, the Commission finds that the proposal is consistent with section 6(b)(5) of the Exchange Act [19] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Currently, Nasdaq does not have generic listing standards for ETFs based on international or global indexes or on indexes described in exchange rules that have been previously approved by the Commission, but systems operated by Nasdaq and its affiliates currently trade such ETFs on an over-the-counter basis as facilities of NASD. After Nasdaq begins to operate as an exchange for non-Nasdaq-listed securities, Nasdaq proposes to continue trading such ETFs pursuant to UTP in substantially the same manner as they trade currently and to trade additional ETFs as the original listing market. Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by an SRO will not be deemed a proposed rule change pursuant to Rule 19b–4(c)(1) if the Commission has approved, pursuant to section 19(b) of the Exchange Act, the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivative securities product, and the SRO has a surveillance program for the product class. Nasdaq's proposed rules for the listing and trading of ETFs pursuant to Rule 19b–4(e) based on (1) Certain indexes with components that include foreign securities or (2) indexes or portfolios previously described in exchange rules that have been approved by the Commission as underlying benchmarks for derivative securities, fulfill these requirements. Use of Rule 19b–4(e) by Nasdaq to list and trade such ETFs should promote competition, reduce burdens on issuers and other market participants, and make such ETFs available to investors more quickly.[20]

[18] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 15 U.S.C. 78f(b)(5).

[20] The Commission notes, however, that the failure of a particular ETF to meet these generic listing standards would not preclude Nasdaq from

The Commission previously has approved generic listing standards for other exchanges, the American Stock Exchange LLC (''Amex'') and the New York Stock Exchange LLC (''NYSE''), that are substantially similar to those proposed here by Nasdaq.[21] This proposal does not appear to raise any novel regulatory issues. Therefore, the Commission finds that Nasdaq's proposal is consistent with the Exchange Act on the same basis that it approved Amex's and NYSE's generic listing standards for ETFs based on international or global indexes or on indexes or portfolios described in exchange rules that have been previously approved by the Commission as underlying benchmarks for derivative securities.

Proposed Nasdaq Rules 4420(i)(3)(A)(ii) and 4420(j)(3)(A)(ii) establish standards for the composition of an index or portfolio underlying an ETF. These requirements are designed, among other things, to require that components of an index or portfolio underlying the ETF are adequately capitalized and sufficiently liquid, and that no one security dominates the index. The Commission believes that, taken together, these standards are reasonably designed to ensure that securities with substantial market capitalization and trading volume account for a substantial portion of any underlying index or portfolio, and with the other applicable listing requirements will permit the listing and trading of ETFs that are sufficiently broad-based to minimize potential manipulation. The Commission further believes that the proposed listing standards are reasonably designed to preclude Nasdaq from listing and trading ETFs that might be used as surrogate for trading in unregistered securities. The requirement that each component security underlying an ETF be an NMS stock (in the case of a U.S. Component Stock) or listed on an exchange and subject to last-sale reporting (in the case of a Non-U.S. Component Stock) also should contribute to the transparency of the market for these ETFs.

The proposed generic listing standards will permit Nasdaq to list and trade an ETF if the Commission has previously approved an SRO rule that contemplates listing and trading a derivative product based on the same underlying index. Nasdaq would be able to rely on that earlier approval order, provided that: (1) The securities comprising the underlying index consist of U.S. Component Stocks or Non-U.S. Component Stocks, as set forth in proposed Nasdaq Rules 4420(i)(1)(C) and (D) and 4420(j)(1)(C) and (D); and (2) Nasdaq complies with the commitments undertaken by the other SRO set forth in the prior order, including any surveillance-sharing arrangements with a foreign market.

The Commission believes that Nasdaq's proposal is consistent with section 11A(a)(1)(C)(iii) of the Exchange Act,[22] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Nasdaq's proposal requires the value of the index or portfolio underlying an ETF based on a global or international index to be disseminated at least once every 60 seconds during Nasdaq trading hours.[23] Nasdaq has represented that, if an underlying index or portfolio value is no longer calculated or available, it would commence delisting proceedings for the associated ETF. Furthermore, these generic listing standards provide that the issuer of an ETF must represent that it will calculate the NAV and make it available daily to all market participants at the same time.[24]

In addition, an IIV, which represents an estimate of the value of a share of each ETF, must be updated and disseminated at least once every 15 seconds during regular market hours and during any pre-market trading session for the ETF. The IIV must reflect changes in the exchange rate between the U.S. dollar and the currency in which any component stock is denominated. When there is no overlap with the trading hours of the primary market or markets trading the underlying components of an ETF, Nasdaq may trade such ETF during any pre-market trading session without an IIV being updated, as long as the last official calculated IIV remains available. Although the IIV is not calculated during any post-market trading session, the last official calculated IIV must also remain available during such post-market session. The Commission believes that the proposed rules regarding the dissemination of the index value and the IIV are reasonably designed to promote transparency in the pricing of ETFs and thus are consistent with the Exchange Act.

Similarly, Nasdaq's trading halt rules are reasonably designed to prevent trading in an ETF when transparency cannot be assured. Proposed Nasdaq Rule 4120(a)(9) provides that, when Nasdaq is the listing market, Nasdaq may halt trading when an interruption occurs in the calculation or dissemination of the IIV or index value applicable to an ETF. If the interruption continues, Nasdaq would halt trading no later than the beginning of the next trading day. In addition, proposed Nasdaq Rule 4120(b) sets forth trading halt procedures when Nasdaq trades the ETF pursuant to UTP. This rule is substantially similar to those recently adopted by other exchanges and found by the Commission to be consistent with the Exchange Act.[25]

In approving this proposal, the Commission relied on Nasdaq's representation that its surveillance procedures are adequate to properly monitor the trading of the PDRs and IFSs listed pursuant to the proposed new listing standards or traded on a UTP basis. This approval is conditioned on the continuing accuracy of that representation.

Acceleration

The Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. The Commission notes that Nasdaq's proposal is substantially similar to Amex and NYSE proposals that have been approved by the Commission.[26]

submitting a separate proposed rule change to list and trade the ETF.

[21] *See* Securities Exchange Act Release No. 54739 (November 9, 2006), 71 FR 66993 (November 17, 2006) (SR–Amex–2006–78) (approving generic listing standards for ETFs based on international or global indexes or indexes described in exchange rules that have been previously approved by the Commission as underlying benchmarks for derivative securities); Securities Exchange Act Release No. 55018 (December 28, 2006), 72 FR 1040 (January 9, 2007) (SR–Amex–2006–109) (making clarifying changes to the generic listing standards set forth in SR–Amex–2006–78); Securities Exchange Act Release No. 55113 (January 17, 2007), 72 FR 3179 (January 24, 2007) (SR–NYSE–2006–101) (approving generic listing standards for ETFs based on international or global indexes or indexes described in exchange rules that have been previously approved by the Commission as underlying benchmarks for derivative securities).

[22] 15 U.S.C. 78k7–1(a)(1)(C)(iii).

[23] *See* proposed Nasdaq Rules 4420(i)(3)(B)(iii)(b) and (c) and 4420(j)(3)(B)(iii)(b) and (c). If an index or portfolio value does not change for some of the time that the ETF trades on the Exchange, the last official calculated value must remain available throughout Exchange trading hours.

[24] *See* proposed Nasdaq Rules 4420(i)(6)(A)(ii) and 4420(j)(6)(A)(ii).

[25] *See* NYSE Arca Equities Rule 7.34; NYSE Rule 1100(f)(2); Securities Exchange Act Release No. 54997 (December 21, 2006), 71 FR 78501 (December 29, 2006) (SR–NYSEArca–2006–77); Securities Exchange Act Release No. 55113 (January 17, 2007), 72 FR 3179 (January 24, 2007) (SR–NYSE–2006–101).

[26] *See supra* note 21.

The Commission does not believe that Nasdaq's proposal raises any novel regulatory issues and, therefore, that good cause exists for approving the filing before the conclusion of a notice-and-comment period. Accelerated approval of the proposal will expedite the listing and trading of additional ETFs by Nasdaq, subject to consistent and reasonable standards. Furthermore, accelerated approval of this proposal will facilitate Nasdaq's ability to continue trading certain non-Nasdaq-listed ETFs as Nasdaq becomes an exchange with respect to non-Nasdaq-listed securities, where there appears to be no regulatory concerns about such trading. Therefore, the Commission finds good cause, consistent with section 19(b)(2) of the Exchange Act,[27] to approve the proposed rule change, as amended, on an accelerated basis.

**V. Conclusion**

*It is therefore ordered,* pursuant to section 19(b)(2) of the Exchange Act,[28] that the proposed rule change (SR–NASDAQ–2006–050), as amended, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[29]

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7–2664 Filed 2–14–07; 8:45 am]

BILLING CODE 8010–01–P

[27] 15 U.S.C. 78s(b)(2).

[28] *Id.*

[29] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration # 10804]**

### Oklahoma Disaster # OK–00010

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oklahoma (FEMA–1678–DR), dated 02/01/2007.

*Incident:* Severe Winter Storms.

*Incident Period:* 01/12/2007 through 01/26/2007.

*Effective Date:* 02/01/2007.

*Physical Loan Application Deadline Date:* 04/02/2007.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 02/01/2007, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:*

Adair, Atoka, Bryan, Cherokee, Coal, Cotton, Craig, Delaware, Haskell, Hughes, Johnston, Latimer, Mayes, Mcintosh, Muskogee, Okfuskee, Okmulgee, Ottawa, Pittsburg, Seminole, Sequoyah, Wagoner

*The Interest Rates are:*

| | Percent |
|---|---|
| Other (Including Non-Profit Organizations) with Credit Available Elsewhere | 5.250 |
| Businesses and Non-Profit Organizations without Credit Available Elsewhere | 4.000 |

The number assigned to this disaster for physical damage is 10804.

(Catalog of Federal Domestic Assistance Number 59008)

**Herbert L. Mitchell,**

*Associate Administrator, for Disaster Assistance.*

[FR Doc. E7–2657 Filed 2–14–07; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration # 10803]**

### Oklahoma Disaster # OK–00009

**AGENCY:** U.S. Small Business Administration

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oklahoma (FEMA–1677–DR), dated 02/01/2007.

*Incident:* Severe Winter Storm.

*Incident Period:* 12/28/2006 through 12/30/2006.

*Effective Date:* 02/01/2007.

*Physical Loan Application Deadline Date:* 04/02/2007.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 02/01/2007, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

*The following areas have been determined to be adversely affected by the disaster:*

*Primary Counties:*

Beaver, Cimarron, Texas

*The Interest Rates are:*

| | Percent |
|---|---|
| Other (Including Non-Profit Organizations) with Credit Available Elsewhere | 5.250 |
| Businesses And Non-Profit Organizations without Credit Available Elsewhere | 4.000 |

The number assigned to this disaster for physical damage is 10803.

(Catalog of Federal Domestic Assistance Number 59008)

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. E7–2659 Filed 2–14–07; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF STATE

**[Public Notice 5697]**

### Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: International Sports Programming Initiative

*Announcement Type:* New Grant.

*Funding Opportunity Number:* ECA/PE/C/WHA–EAP–07–26.

*Catalog of Federal Domestic Assistance Number:* 00.000.

*Key Dates:* Application Deadline: April 6, 2007.

*Executive Summary:* The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces an open competition for the International Sports Programming Initiative. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit

proposals to discuss approaches designed to enhance and improve the infrastructure of youth sports programs in the countries of Africa, East Asia, the Near East and North Africa, South Asia and the Western Hemisphere. The focus of all programs must be reaching out to youth ages 8–18. Programs designed to train elite athletes will not be considered. In Africa, the following countries are eligible: Kenya, Liberia, Nigeria and South Africa. In East Asia eligible countries are: China, Indonesia, Malaysia, Philippines, Thailand and Vietnam. In the Near East and North Africa, eligible countries are: Algeria, Egypt, Jordan, Lebanon, Morocco, Saudi Arabia, and West Bank/Gaza. Eligible countries in South and Central Asia are Bangladesh, India, Nepal, Pakistan, Kyrgyzstan, Kazakhstan, Sri Lanka, Tajikistan, Turkmenistan, and Uzbekistan. Eligible countries in the Western Hemisphere are Venezuela, Nicaragua, and the Dominican Republic. With the exception of programs for the Western Hemisphere, only single country projects are eligible.

Applicants may not submit proposals that address more than one country or for countries that are not designated in the RFGP.

For the purposes of this competition, eligible regions are Africa, East Asia, the Near East, North Africa, South Asia and the Western Hemisphere. No guarantee is made or implied that grants will be awarded in all themes and for all countries listed.

## I. Funding Opportunity Description

**Authority:** Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

*Purpose*

*Overview:* The Office of Citizen Exchanges welcomes proposals that directly respond to the following thematic areas listed below. Given budgetary limitations, projects for other themes and other countries not listed below will not be eligible for consideration under the FY–2007 International Sports Program Initiative. In Africa, the following countries are eligible: Kenya, Liberia, Nigeria and South Africa. In East Asia, eligible countries are: China, Indonesia, Malaysia, Philippines, Thailand and Vietnam. In the Near East and North Africa, eligible countries are: Algeria, Egypt, Jordan, Lebanon, Morocco, Saudi Arabia, and West Bank/Gaza. Eligible countries in South and Central Asia are Bangladesh, India, Nepal, Pakistan, Kyrgyzstan, Kazakhstan, Sri Lanka, Tajikistan, Turkmenistan, and Uzbekistan. Eligible countries in the Western Hemisphere are Venezuela, Nicaragua, and the Dominican Republic. With the exception of programs for the Western Hemisphere, only single country projects are eligible.

*Themes*

(1) Training Sports Coaches

The World Summit on Physical Education (Berlin, 1999) stated that a ''quality physical education helps children to develop the patterns of interest in physical activity, which are essential for healthy development and which lay the foundation for healthy, adult lifestyles.'' Coaches are critical to the accomplishment of this goal. A coach not only needs to be qualified to provide the technical assistance required by young athletes to improve, but must also understand how to aid a young person to discover how success in athletics can be translated into achievement in the development of life skills and in the classroom.

Projects submitted in response to this theme will aim at aiding youth, secondary school and university coaches in the target countries in the development and implementation of appropriate training methodologies, through seminars and outreach. The goal is to ensure the optimal technical proficiency among the coaches participating in the program while also emphasizing the role sports can play in the long-term economic wellbeing of youth.

(2) Youth Sports Management Exchange

Exchanges funded under this theme will aid American and foreign youth sport coaches, adult sponsors, and sports association officials to share their experience in managing and organizing youth sports activities, particularly in financially challenging circumstances, and will further understanding of the role of sports as a significant factor in educational success. Americans are in a good position to convey to foreign counterparts the importance of linking success in sports to educational achievement and demonstrate how these two factors contribute to short-term and long-term economic prospects.

(3) Youth With Disability

Exchanges supported by this theme are designed to promote and sponsor sports, recreation, fitness and leisure events for children and adults with physical disabilities. Project goals include improving the quality of life for people with disabilities by providing affordable inclusive sports and recreational experiences that build self-esteem and confidence, enhancing active participation in community life and making a significant contribution to the physical and psychological health of people with disabilities. Proposals under this theme aim to assist physically and developmentally challenged individuals can be included in the sports and recreation opportunities in their communities.

(4) Sports and Health

Projects funded under this category will focus on effective and practical ways to use sport personalities and sports health professionals to increase awareness among young people of the importance of following a healthy lifestyle to reduce illness, prevent injuries and speed rehabilitation and recovery. Emphasis will be on the responsibility of the broader community to support healthy behavior. The project goals are to promote and integrate scientific research, education, and practical applications of sports medicine and exercise science to maintain and enhance physical performance, fitness, health, and quality of life. (Actual medical training and dispensing of medications are outside the purview of this theme.)

*Audience:* Representatives from government and non-governmental organizations, coaches, community leaders, and youth audiences.

*Ideal Program Model:*

- U.S. grantee identifies U.S. citizens to conduct multi location in-country program, including clinics and training sessions for government officials (Ministry of Sports and Ministry of Education), coaches (adult and youth), NGO representatives including representatives from relevant sports federation, community officials including local authorities associated with recreational facilities, youth audiences (equal numbers of boys and girls), elected local government officials, and sports management professionals to support one of the themes listed. In-country partner (a local university, government agency or other appropriate

organization such as relevant sports federation) would co-host an activity with the U.S. grantee institution, and participate in the selection of participants for U.S. program.

• U.S. program that would include site visits designed to provide participants with background information on U.S. approaches to the themes listed in the announcement; internships with appropriate sports related organizations and at community-based recreational facilities; and a one-day debriefing and evaluation.

• In-country program conducted by U.S. experts that served as internship hosts or coordinated site visits. Participants in U.S. program design the program and serve as co-presenters. Project would also support materials translated into target language, small grants for projects designed to expand the exchange experience and support for the development of alumni association.

*Suggested Program Designs*

Bureau-supported exchanges may include internships; study tours; short-term, non-technical experiential learning; extended and intensive workshops; and seminars taking place in the United States or overseas as long as these seminars promote intensive exchange of ideas among participants in the project. Examples of program activities include:

1. A U.S.-based program that includes an orientation to program purposes and to U.S. society; study tour/site visits; professional internships/placements; interaction and dialogue; hands-on training; professional development; and action plan development.

2. Capacity-building/training-of-trainer (TOT) workshops to help participants to identify priorities, create work plans, strengthen professional and volunteer skills, share their experience with committed people within each country, and become active in a practical and valuable way.

3. Site visits by U.S. facilitators/experts to monitor projects in the region and to encourage further development, as appropriate.

*Participant Selection*

Proposals should clearly describe the types of persons that will participate in the program as well as the participant recruitment and selection processes. For programs that include U.S. internships, applicants should submit letters of support from host institutions. In the selection of foreign participants, the Bureau and U.S. embassies retain the right to review all participant nominations and to accept or refuse participants recommended by grantee institutions. When U.S. participants are selected, grantee institutions must provide their names and brief biographical data to the Office of Citizen Exchanges. Priority in two-way exchange proposals will be given to foreign participants who have not previously traveled to the United States.

## II. Award Information

*Type of Award:* Grant Agreement.

*Fiscal Year Funds:* 2007.

*Approximate Total Funding:* $1,000,000.

*Approximate Number of Awards:* 6–7.

*Approximate Average Award:* $135,000.

*Floor of Award Range:* $60,000.

*Ceiling of Award Range:* Approximately $135,000.

*Anticipated Award Date:* Pending availability of funds, August 31, 2007.

*Anticipated Project Completion Date:* September 30, 2008-June 30, 2009.

Projects under this competition may range in length from one to three years depending on the number of project components, the country/region targeted and the extent of the evaluation plan proposed by the applicant. The Office of Citizen Exchanges strongly encourages applicant organizations to plan enough time after project activities to measure project outcomes. Please refer to the Program Monitoring and Evaluation section, item IV.3d.3 below, for further guidance on evaluation.

## III. Eligibility Information

*III.1. Eligible applicants:* Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

*III.2. Cost Sharing or Matching Funds:* There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs. Cost sharing is an important element of the ECA-grantee institution relationship, and it demonstrates the implementing organization's commitment to the program. Cost sharing is included as one criterion for grant proposal evaluation. Applicants are strongly encouraged to cost share a portion of overhead and administrative expenses. Cost-sharing, including contributions from the applicant, proposed in-country partner(s), and other sources should be indicated in the budget request. Proposal budgets that do not reflect cost sharing will be deemed less competitive under the Cost Effectiveness and Cost Sharing criterion (item V.1 below). When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs that are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

*III.3. Other Eligibility Requirements:*

a. Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

b. Technical Eligibility: In addition to the requirements outlined in the Proposal Submission Instructions (PSI) technical format and instructions document, all proposals must comply with the following or they will result in your proposal being declared technically ineligible and given no further consideration in the review process.

1. The Office does not support proposals limited to conferences or seminars (*i.e.,* one- to fourteen-day programs with plenary sessions, main speakers, panels, and a passive audience). It will support conferences only when they are a small part of a larger project in duration that is receiving Bureau funding from this competition.

2. No funding is available exclusively to send U.S. citizens to conferences or conference-type seminars overseas; nor is funding available for bringing foreign nationals to conferences or to routine professional association meetings in the United States.

3. The Office of Citizen Exchanges does not support academic research or faculty or student fellowships.

4. Applicants may not submit more than one (1) proposal for this competition. Organizations that submit proposals that exceed these limits will result in having all of their proposals declared technically ineligible, and none of the submissions will be reviewed by a State Department panel.

5. Proposals that target countries/regions or themes not listed in the RFGP will be deemed technically ineligible.

## IV. Application and Submission Information

**Note:** Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

*IV.1 Contact Information To Request an Application Package:*

Please contact the Office of Citizen Exchanges, ECA/PE/C, Room 220, U.S. Department of State, SA–44, 301 4th Street, S.W., Washington, D.C., 20547, tel.: 202–453–8163; fax: 202–453–8168; or e-mail *harveyrh@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number (ECA/PE/C/WHA–EAP–07–26) located at the top of this announcement when making your request. Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3F for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document that consists of required application forms, and standard guidelines for proposal preparation.

Please specify the Bureau Program Officer listed for each region and theme above and refer to the Funding Opportunity Number (ECA/PE/C/WHA–EAP–07–26) located at the top of this announcement on all other inquiries and correspondence.

*IV.2. To Download a Solicitation Package Via Internet:* The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm*, from the grants.gov Web site at *http://www.grants.gov*. Please read all information before downloading.

*IV.3. Content and Form of Submission:* Applicants must follow all instructions in the Solicitation Package. The application should be sent per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' below

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 *Adherence to All Regulations Governing the J Visa.* The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss its record of compliance with 22 CFR 62 et. seq., including the oversight of its Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 203–5029, FAX: (202) 453–8640.

IV.3d.2 *Diversity, Freedom and Democracy Guidelines.* Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106—113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. *Program Monitoring and Evaluation.* Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a

description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes*. *Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes*, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.

2. *Participant learning*, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. *Participant behavior*, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. *Institutional changes*, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

**Please note:** Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. For this competition, requests should not exceed approximately $135,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include the following:

1. *Travel*. International and domestic airfare; visas; transit costs; ground transportation costs. Please note that all air travel must be in compliance with the Fly America Act. There is no charge for J–1 visas for participants in Bureau sponsored programs.

2. *Per Diem*. For U.S.-based programming, organizations should use the published Federal per diem rates for individual U.S. cities. Domestic per diem rates may be accessed at: *http://policyworks.gov/org/main/mt/homepage/mtt/perdiem/perd03d.html*. ECA requests applicants to budget realistic costs that reflect the local economy and do not exceed Federal per diem rates. Foreign per diem rates can be accessed at: *http://www.state.gov/m/a/als/prdm/html*.

3. *Interpreters*. For U.S.-based activities, ECA strongly encourages applicants to hire their own locally based interpreters. However, applicants may ask ECA to assign State Department interpreters. One interpreter is typically needed for every four participants who require interpretation. When an applicant proposes to use State Department interpreters, the following expenses should be included in the budget: Published Federal per diem rates (both ''lodging'' and ''M&IE'') and ''home-program-home'' transportation in the amount of $400 per interpreter. Salary expenses for State Department interpreters will be covered by the Bureau and should not be part of an applicant's proposed budget. Bureau funds cannot support interpreters who accompany delegations from their home country or travel internationally.

4. *Book and Cultural Allowances*. Foreign participants are entitled to a one-time cultural allowance of $150 per person, plus a book allowance of $50. Interpreters should be reimbursed up to $150 for expenses when they escort participants to cultural events. U.S. program staff, trainers or participants are not eligible to receive these benefits.

5. *Consultants*. Consultants may be used to provide specialized expertise or to make presentations. Honoraria rates should not exceed $250 per day. Organizations are encouraged to cost-share rates that would exceed that figure. Subcontracting organizations may also be employed, in which case the written agreement between the prospective grantee and sub-grantee should be included in the proposal. Such sub-grants should detail the division of responsibilities and proposed costs, and subcontracts should be itemized in the budget.

6. *Room rental*. The rental of meeting space should not exceed $250 per day. Any rates that exceed this amount should be cost shared.

7. *Materials*. Proposals may contain costs to purchase, develop and translate materials for participants. Costs for high quality translation of materials should be anticipated and included in the budget. Grantee organizations should expect to submit a copy of all program materials to ECA, and ECA support should be acknowledged on all materials developed with its funding.

8. *Equipment*. Applicants may propose to use grant funds to purchase equipment, such as computers and printers; these costs should be justified

in the budget narrative. Costs for furniture are not allowed.

9. *Working meal*. Normally, no more than one working meal may be provided during the program. Per capita costs may not exceed $15–$25 for lunch and $20–$35 for dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. When setting up a budget, interpreters should be considered ''participants.''

10. *Return travel allowance*. A return travel allowance of $70 for each foreign participant may be included in the budget. This allowance would cover incidental expenses incurred during international travel.

11. *Health Insurance*. Foreign participants will be covered during their participation in the U.S. program by the ECA-sponsored Accident and Sickness Program for Exchanges (ASPE), for which the grantee must enroll them. Details of that policy can be provided by the contact officers identified in this solicitation. The premium is paid by ECA and should not be included in the grant proposal budget. However, applicants are permitted to include costs for travel insurance for U.S. participants in the budget.

12. *Wire transfer fees*. When necessary, applicants may include costs to transfer funds to partner organizations overseas. Grantees are urged to research applicable taxes that may be imposed on these transfers by host governments.

13. *In-country travel costs* for visa processing purposes. Given the requirements associated with obtaining J–1 visas for ECA-supported participants, applicants should include costs for any travel associated with visa interviews or DS–2019 pick-up.

14. *Administrative Costs*. Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Application Package. While there is no rigid ratio of administrative to program costs, proposals in which the administrative costs do not exceed 25% of the total requested ECA grant funds will be more competitive under the cost effectiveness and cost sharing criterion, per item V.1 below. Proposals should show strong administrative cost sharing contributions from the applicant, the in-country partner and other sources.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. *Application Deadline and Methods of Submission:* Application Deadline Date: Thursday, April 6, 2007. Reference Number: ECA/PE/C/WHA–EAP–07–26. Methods of Submission: Applications may be submitted in one of two ways:

1. In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

2. Electronically through *www.grants.gov*.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 *Submitting Printed Applications.* Due to heightened security measures, proposal submissions must be sent via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.) and be shipped no later than the above deadline. The delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. ECA will *not* notify you upon receipt of application. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered. Applications may not be submitted electronically at this time.

**Applicants must follow all instructions in the Solicitation Package.**

**Important note:** When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and ten copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/WHA–EAP–07–26, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.2—*Submitting Electronic Applications.* Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the ''Get Started'' portion of the site (*http://www.grants.gov/GetStarted*). Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov. Once registered, 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 not wait until the application deadline to begin the submission process through Grants.gov. Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, Contact Center Phone: 800–518–4726, Business Hours: Monday—Friday, 7 a.m.—9 p.m. Eastern Time, E-mail: *support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the Grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from Grants.gov upon the successful submission of an application. ECA will *not* notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov Web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. *Intergovernmental Review of Applications:* Executive Order 12372 does not apply to this program.

IV.3h. Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. Embassy for its review.

## V. Application Review Information

### *V.1. Review Process*

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for grants resides with the Bureau's Grants Officer.

### *Review Criteria*

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Program Planning and Ability To Achieve Objectives:*

Program objectives should be stated clearly and should reflect the applicant's expertise in the subject area and region. Objectives should respond to the topics in this announcement and should relate to the current conditions in the target country/countries. A detailed agenda and relevant work plan should explain how objectives will be achieved and should include a timetable for completion of major tasks. The substance of workshops, internships, seminars and/or consulting should be described in detail. Sample training schedules should be outlined. Responsibilities of proposed in-country partners should be clearly described. A discussion of how the applicant intends to address language issues should be included, if needed.

2. *Institutional Capacity:* Proposals should include (1) the institution's mission and date of establishment; (2) detailed information about proposed in-country partner(s) and the history of the partnership; (3) an outline of prior awards—U.S. government and/or private support received for the target theme/country/region; and (4) descriptions of experienced staff members who will implement the program.

The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the target country/countries. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The Bureau strongly encourages applicants to submit letters of support from proposed in-country partners.

3. *Cost Effectiveness and Cost Sharing:* Overhead and administrative costs in the proposal budget, including salaries, honoraria and subcontracts for services, should be kept to a minimum. *Proposals whose administrative costs are less than twenty-five (25) percent of the total funds requested from the Bureau will be deemed more competitive under this criterion.* Applicants are strongly encouraged to cost share a portion of overhead and administrative expenses. Cost-sharing, including contributions from the applicant, proposed in-country partner(s), and other sources should be included in the budget request. Proposal budgets that do not reflect cost sharing will be deemed not competitive in this category.

4. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities). Applicants should refer to the Bureau's Diversity, Freedom and Democracy Guidelines in the Proposal Submission Instructions (PSI) and the Diversity, Freedom and Democracy Guidelines section, Item IV.3d.2, above for additional guidance.

5. *Post-Grant Activities:* Applicants should provide a plan to conduct activities after the Bureau-funded project has concluded in order to ensure that Bureau-supported programs are not isolated events. Funds for all post-grant activities must be in the form of contributions from the applicant or sources outside of the Bureau. Costs for these activities must not appear in the proposal budget, but should be outlined in the narrative.

6. *Program Monitoring and Evaluation:* Proposals should include a detailed plan to monitor and evaluate the program. Program objectives should target clearly defined results in quantitative terms. Competitive evaluation plans will describe how applicant organizations would measure these results, and proposals should include draft data collection instruments (surveys, questionnaires, etc.) in Tab E. See the ''Program Management/Evaluation'' section, item IV.3d.3 above for more information on the components of a competitive evaluation plan. Successful applicants (grantee institutions) will be expected to submit a report after each program component concludes or on a quarterly basis, whichever is less frequent. The Bureau also requires that grantee institutions submit a final narrative and financial report no more than 90 days after the expiration of a grant. Please refer to the ''Program Management/Evaluation'' section, item IV.3d.3 above for more guidance.

## VI. Award Administration Information

### *VI.1a. Award Notices*

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

### *VI.2. Administrative and National Policy Requirements*

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments.''

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants*; *http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI*.

*VI.3. Reporting Requirements*

You must provide ECA with a hard copy original plus two copies of the following reports:

1. A final program and financial report no more than 90 days after the expiration of the award;
2. Any interim report(s) required in the Bureau grant agreement document.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to Application and Submission Instructions [IV.3d.3] above for Program Monitoring and Evaluation information.)

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

*VI.4. Program Data Requirements*

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

1. Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.
2. Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three workdays prior to the official opening of the activity.

**VII. Agency Contacts**

For questions about this announcement, contact: Raymond Harvey, Office of Citizen Exchanges, ECA/PE/C, Room 220, ECA/PE/C/WHA–EAP–07–26, Bureau of Educational and Cultural Affairs, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC, 20547; tel.: 202–453–8163; fax: 202–453–8168; *harveyrh@state.gov*.

For correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/WHA–EAP–07–26. Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

**VIII. Other Information**

*Notice*

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: February 6, 2007.

**Dina Habib Powell,**

*Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. E7–2683 Filed 2–14–07; 8:45 am]

BILLING CODE 4710–05–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Environmental Impact Statement: Kodiak Airport, Kodiak, AK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The Federal Aviation Administration announces that it will prepare an Environmental Impact Statement (EIS) for the consideration of proposed actions at the Kodiak Airport. Public and agency scoping meetings will be conducted for the Federal Aviation Administration to receive comments regarding the preparation of the EIS.

**DATES:**

1. March 27, 2007 in Anchorage, Alaska for agency scoping meeting.
2. March 28, 2007 in Kodiak, Alaska for agency scoping meeting.
3. March 28, 2007 in Kodiak, Alaska for public scoping meeting.
4. April 9, 2007 close of scoping comment period.

*Responsible Official:* Leslie A. Grey, Environmental Protection Specialist AAL–614, Federal Aviation Administration, Alaskan Region, Airports Division, 222 W. 7th Avenue, #14, Anchorage, AK 99513–7587, Telephone (907) 271–5453.

**FOR FURTHER INFORMATION CONTACT:** Leslie A. Grey, Environmental Protection Specialist AAL–614, Federal Aviation Administration, Alaskan Region, Airports Division, 222 W. 7th Avenue, #14, Anchorage, AK 99513–7587, Telephone (907) 271–5453, e-mail: *Comments@KodiakAirportEIS.com.*

*Submit Written Comments, Send To:* Leslie A. Grey, Environmental Protection Specialist AAL–614, Federal Aviation Administration, Alaskan Region, Airports Division, 222 W. 7th Avenue, #14, Anchorage, AK 99513–7587, Telephone (907) 271–5453, e-mail: *Comments@KodiakAirportEIS.com.*

**SUPPLEMENTARY INFORMATION:** The Federal Aviation Administration will prepare an EIS to assess the proposed projects at the Kodiak Airport. The list of major actions proposed to be assessed in the EIS includes improvements to the Runway Safety Areas on Runway 07/25 and Runway 18/36. To improve the safety areas, the FAA will consider alternatives such as the relocation, shifting or realignment of runways; a combination of runway relocation, shifting, grading, realignment; declared distances; and Engineered Material Arresting Systems (EMAS).

The Runway Safety Area deficiencies were identified in the Kodiak Airport Master Plan. The State of Alaska Department of Transportation and Public Facilities published the Airport Master Plan in January 2004.

To ensure that the full range of issues related to the proposed actions are addressed and that all significant issues are identified, the FAA intends to coordinate and consult with the public;

tribal governments; and Federal, State, and local agencies that have jurisdiction by law or have special expertise with respect to any environmental impacts associated with the proposed projects.

The agency scoping meetings will be held in Anchorage, Alaska on March 27th, 2007 and in Kodiak, Alaska on March 28th, 2007. A public scoping meeting will be held in Kodiak, Alaska on March 28th, 2007. Notification of the public scoping meeting will be published on the project Web site (*www.kodiakairporteis.com*), in the Kodiak Daily Mirror, and in the Anchorage Daily News.

In addition to providing input at the scoping meetings, the agencies and the public may submit written comments via the e-mail address *Comments@KodiakAirportEIS.com* or the address under, ''To Submit Written Comments, Send To.'' Comments must be submitted by April 9th, 2007.

Issued in Anchorage, Alaska, on February 8, 2007.

**Byron K. Huffman,**

*Manager, Airports Division, AAL–600.*

[FR Doc. 07–692 Filed 2–14–07; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### FAA (Aircraft Certification Service) Information Sharing and Listening Session.

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces a meeting to discuss various FAA rotorcraft safety initiatives and to gether any relevant information that will help to reduce general aviation rotorcraft accidents.

**DATES:** The meeting will be on March 3, 2007, 8–11 a.m. EST.

**ADDRESSES:** The meeting is in conjunction with Heli-Expo at the Orange County Convention Center, Conference Room W222–B, West Building, Orlando, FL.

**FOR FURTHER INFORMATION CONTACT:** Jorge Castillo, Rotorcraft Standard Staff, ASW–112, 2601 Meacham Boulevard, Fort Worth, TX 76137, telephone (817) 222–5110, or by e-mail at *Jorge.R.Castillo@faa.gov.*

**SUPPLEMENTARY INFORMATION:** The meeting is announced pursuant to 49 U.S.C. 40113 and 49 U.S.C. 44701 to take actions the FAA considers necessary in order to enhance safety in air commerce and the DOT policies and procedures to seek public participation in that process.

This meeting is part of the Rotorcraft Directorate's initiative and supports one of the top safety objectives of the FAA 2006–2010 Flight Plan to reduce the number of fatal accidents in general aviation. At this meeting, we will brief you on some of the FAA's initiatives intended to reduce rotorcraft accidents, including implementation of Automatic Detection Surveillance Broadcast (ADS–B) in the Gulf of Mexico and the use of Night Vision Imaging Systems (NVIS). You will have an opportunity to propose safety-enhancing recommendations and to recommend how the FAA should implement strategies that will help reduce rotorcraft accidents. Attendance to open to all interested persons but will be limited to the space available.

Issued in Fort Worth, Texas, on January 31, 2007.

**David A. Downey,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 07–711 Filed 2–14–07; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Environmental Impact Statement; Dodge and Steele Counties, MN

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for proposed highway improvements to United States Highway 14 (Highway 14) from the existing four-lane bypass of Dodge Center to the intersection of Highway 14 and Interstate 35 (I–35) in Owatonna, a distance of approximately 19 miles, in Dodge and Steele Counties, Minnesota.

**FOR FURTHER INFORMATION CONTACT:** Cheryl Martin, Federal Highway Administration, Galtier Plaza, 380 Jackson Street, Suite 500, St. Paul, Minnesota 55101, Telephone (651) 291–6120; or Richard Augustin, Project Manager, Minnesota Department of Transportation—District 6, 2900 48th Street, NW., Rochester, Minnesota 55901, Telephone (507) 280–5092; (800) 627–3529 TTY.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Minnesota Department of Transportation (Mn/DOT), will prepare an EIS on a proposal to reconstruct Highway 14 from the existing four-lane bypass of Dodge Center, Dodge County, to the intersection of Highway 14 and I–35 in Owatonna, Steele County, Minnesota, a distance of approximately 19 miles. The proposed action is being considered to address future transportation demand and safety problems and to enhance system continuity.

This segment of Highway 14 was previously included in an EIS process, which addressed a broader 24-mile segment of Highway 14 from Owatonna to Kasson. The Draft EIS for the Owatonna to Kasson project was approved in October 1991 and the Final EIS was approved in August 1993. The 1993 Final EIS defined two project segments. The first was an extension of the four-lane, divided expressway from Kasson to the west side of Dodge Center at Highway 56 (including the Dodge Center bypass). At the time of the EIS, this project was programmed for construction in 1994. The second segment involved extending the four lanes from Highway 56 to Highway 218 in Owatonna. This segment was not programmed for construction when the EIS was completed. Since the 1993 Final EIS, the Kasson to Dodge Center segment has been constructed as a four-lane highway, including a freeway design bypass of Dodge Center. The ''1993 preferred alternative'' for the segment between Dodge Center and Owatonna has not been constructed. With the completion of the Dodge Center to Kasson segment, and the imminent completion of the Highway 14 improvements west of I–35, a process was started to re-evaluate the 1993 EIS conclusions regarding the Owatonna to Dodge Center segment. This segment continues to increase in priority given traffic growth, safety concerns, and the logic of completing the last segment of Highway 14 between Mankato and Rochester to be expanded to a four-lane highway. Based on a review of the 1993 EIS and the changes in transportation needs that have taken place since 1993, it was concluded that a new EIS for the Owatonna to Dodge Center segment should be completed for the following reasons:

—The vision for Highway 14 has changed to a controlled access freeway design, as opposed to the expressway design determined by the 1993 EIS, due to overall traffic growth, safety concerns, access spacing issues, driver expectation and increased truck traffic and,

—The previously identified preferred alternative of expanding on the

existing corridor rather than a new corridor parallel to the Dakota, Minnesota & Eastern Railroad that was considered in the 1993 EIS needs to be revisited.

The EIS will evaluate the social, economic, transportation and environmental impacts of alternatives, including: (1) No-Build, (2) Reconstruction on existing alignment, and (3) Construction on partial new alignment.

The ''US 14 EIS from Owatonna to Dodge Center Scoping Document/Draft Scoping Decision Document'' was published in November 2006. A press release was published to inform the public of the document's availability. Copies of the scoping document was distributed to agencies, interested persons and libraries for review to aid in identifying issues and analyses to be contained in the EIS. A thirty-day comment period for review of the document was provided to afford an opportunity for all interested persons, agencies and groups to comment on the proposed action. A public scoping meeting was also held during the comment period. Public notice was given for the time and place of the meeting. The scoping comment period closed on December 22, 2006. The ''US 14 EIS Scoping Decision Document'' is expected to be published in February 2007. A Draft EIS will be prepared based on the outcome of and closely following the scoping process. The Draft EIS will be available for agency and public review and comment. In addition, a public hearing will be held following completion of the Draft EIS. Public Notice will be given for the time and place of the public hearing on the Draft EIS. Coordination has been initiated and will continue with appropriate Federal, State and local agencies and private organizations and citizens who have previously expressed or are known to have an interest in the proposed action. ''Participating agencies'' have been identified and a meeting held on October 25, 2006 to discuss the project and receive input on the ''purpose and need'' for the project and range of alternatives to be studied in the Draft EIS. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: February 8, 2007

**Cheryl B. Martin,**

*Environmental Engineer, Federal Highway Administration, St. Paul, Minnesota.*

[FR Doc. 07–695 Filed 2–14–07; 8:45 am]

**BILLING CODE 4910–22–M**

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Environmental Impact Statement; Utah County, UT

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Intent.

**SUMMARY:** FWHA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for proposed transportation improvements on Geneva Road (SR–114) in Utah County, Utah that would begin at Center Street and U.S. Interstate 15 (I–15) in Provo and extend through the municipalities of Provo, Utah County, Vineyard, Orem, Lindon, Pleasant Grove and terminate at State Street (SR–89) in Pleasant Grove.

**FOR FURTHER INFORMATION CONTACT:** Anthony Sarhan, Area Engineer, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84118, Telephone: (801) 963–0182; or Phil Huff, Project Manager, Utah Department of Transportation, Region Three Office, 658 North 1500 West, Orem, UT 84057, Telephone: (801) 227–8000.

**SUPPLEMENTARY INFORMATION:** FWHA, in cooperation with the Utah Department of Transportation (UDOT), the municipalities of Pleasant Grove, Lindon, Orem, Vineyard, Provo, and Utah County will prepare an Environmental Impact Statement (EIS) on a proposal to address current and projected traffic demand on Geneva Road. The proposed project area extends for approximately 10 miles in length along existing Geneva Road between Pleasant Grove and Provo, and is generally bordered on the west by Utah Lake and on the east by I–15. Improvements to the Geneva Road corridor are considered necessary to provide for the existing and projected traffic demand.

The FHWA will consider a reasonable range of alternatives which meet the project objectives and are based on agency and public input. These alternatives include: (1) Taking no action; (2) using alternative travel modes, (3) upgrading and adding lanes to the existing two-lane highway; and (4) constructing a highway on a new location for all or a portion of the project length.

The public, as well as Federal, State, and local agencies, will be invited to participate in project scoping to ensure that a full range of alternatives is considered and that all appropriate environmental issues and resources are evaluated. The scoping process will include opportunities to provide comments on the purpose and need for the project, potential alternatives, and social, economic, and environmental issues of concern.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, state, and local agencies, and to private organizations and citizens who have previously expressed or who are known to have an interest in this proposal. An agency scoping meeting will be held to solicit comments on March 8, 2007, from 1 PM to 3 PM in Conference Rooms A, B, and C at the UDOT Region 3 Office (658 North 1500 West, Orem, UT).

The public will be invited to participate in scoping meetings which will be held in an open house format at locations and dates to be determined. In addition, a public hearing will be held following the release of the draft EIS. Public notice advertisements and direct mailings will notify interested parties of the time and place of the public meetings and the public hearing.

To ensure that the full range of issues related to this proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20–.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

**Edward Woolford,**

*Environmental Specialist, FHWA—Division.*

[FR Doc. E7–2635 Filed 2–14–07; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 34977]**

### BNSF Railway Company—Trackage Rights Exemption—Illinois Central Railroad Company

Pursuant to a written trackage rights agreement dated December 18, 2006, Illinois Central Railroad Company (CN) has agreed to grant overhead trackage rights to BNSF Railway Company (BNSF): (1) On CN's Centralia Subdivision, extending between the connection with BNSF trackage at or near CN's milepost 252.5 in Centralia, IL, and, on CN's Fulton Subdivision, the connection with BNSF trackage at or near CN's milepost 392.3 in Memphis, TN;[1] and (2) on CN's Bluford Subdivision, extending between the connection with Paducah and Illinois Railroad Company and Paducah and Louisville Railway Inc. trackage at or near CN's milepost 0.2 in Chiles Junction, KY, and CN's milepost 2.2 in Maxon, KY, respectively, and, on CN's Fulton Subdivision, the connection with BNSF at or near CN's milepost 392.3 in Memphis, TN, a distance of approximately 437 miles, all within the states of IL, TN and KY.[2]

The transaction is scheduled to be consummated on March 1, 2007.[3]

The purpose of the trackage rights is to facilitate the movement of traffic between (1) Centralia, IL, and Memphis, TN, (2) Maxon, KY, and Memphis, TN, and (3) Chiles Junction, KY, and Memphis, TN. BNSF will operate its own trains with its own crews over the lines.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by February 22, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34977, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Sidney L. Strickland Jr., Sidney Strickland and Associates, PLLC, 3050 K Street, NW., Suite 101, Washington, DC 20007.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov*.''

Decided: February 6, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E7–2440 Filed 2–14–07; 8:45 am]

**BILLING CODE 4915–01–P**

[1] Trackage rights extending between milepost 387.91 and milepost 389.98 on CN's Fulton Subdivision are excluded because that segment of track is owned and operated by CSXT Transportation, Inc.

[2] A redacted version of the trackage rights agreement between CN and BNSF was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for protective order. The motion is being addressed in a separate decision.

[3] The trackage rights agreement provides for an initial term of 20 years from December 18, 2006, and that BNSF shall have the right to terminate the agreement upon advising CN 60 days in advance by written notice. The parties must seek appropriate Board authority for the trackage rights to expire.

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 34979]**

### BNSF Railway Company—Trackage Rights Exemption—Grand Trunk Western Railroad Incorporated

Pursuant to a written trackage rights agreement dated December 18, 2006, Grand Trunk Western Railroad Incorporated (CN) has agreed to grant overhead trackage rights to BNSF Railway Company (BNSF) over a line of railroad known as CN's Elsdon Subdivison extending between the connection with Norfolk Southern Corporation (NS) trackage at or near CN's milepost 8.5 and the connection with NS at the west end of CN's Fence Track at or near CN's milepost 6.1, a distance of approximately 2.4 miles, all within the State of Illinois.[1]

The transaction is scheduled to be consummated on March 1, 2007.[2]

The purpose of the trackage rights is the movement of specific traffic between Corwith, IL, and Railport, IL. BNSF will operate its own trains with its own crews over the line.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by February 22, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34979, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Sidney L. Strickland Jr., Sidney Strickland and Associates, PLLC, 3050 K Street, NW., Suite 101, Washington, DC 20007.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov*.''

Decided: February 6, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

FR Doc. E7–2443 Filed 2–14–07; 8:45 am]

**BILLING CODE 4915–01–P**

[1] A redacted version of the trackage rights agreement between CN and BNSF was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for protective order. The motion is being addressed in a separate decision.

[2] The trackage rights agreement provides for an initial term of 20 years from December 18, 2006, and that BNSF shall have the right to terminate the agreement upon advising CN 60 days in advance by written notice. The parties must seek appropriate Board authority for the trackage rights to expire.

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Notice 06–109

**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 Notice 06–109, interim Guidance Regarding Supporting Organizations and Donor Advised Funds.

**DATES:** Written comments should be received on or before April 16, 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 notice 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:* Interim Guidance Regarding Supporting Organizations and Donor Advised Funds.

*OMB Number:* 1545–2050.

*Notice Number:* Notice 06–109.

*Abstract:* 109 This notice provides interim guidance regarding application of new or revised requirements under sections 1231 and 1241–1244 of the Pension Protection Act of 2006. It also provides interim relief from application of new excise taxes on private foundation grants to supporting organizations and on sponsoring organizations of donor advised funds.

*Current Actions:* There are no changes being made to the notice at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Not-for-profit institutions.

*Estimated Number of Respondents:* 65,000.

*Estimated Time Per Respondent:* 9 hours, 25 minutes.

*Estimated Total Annual Burden Hours:* 612,294.

*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: February 9, 2007.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E7–2595 Filed 2–14–07; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Revenue Procedure 2006–42

**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 Revenue Procedure 2006–42 (RP–135718–06), Automatic Consent to Change Certain Elections Relating to the Apportionment of Interest Expense, Research and Experimental Expenditures Under Section 1.861.

**DATES:** Written comments should be received on or before April 16, 2007 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn 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 revenue procedure 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:* Automatic Consent to Change Certain Elections Relating to the Apportionment of Interest Expense, Research and Experimental Expenditures Under Section 1.861.

*OMB Number:* 1545–2040.

*Revenue Procedure Number:* Revenue Procedure 2006–42.

*Abstract:* This revenue procedure provides administrative guidance under which a taxpayer may obtain automatic consent to change (a) From the fair market value method or from the alternative tax book method to apportion interest expense or (b) from the sales method or the optional gross income methods to apportion research and experimental expenditures.

*Current Actions:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit institutions, and individuals or households.

*Estimated Number of Respondents:* 200.

*Estimated Time Per Respondent:* 30 minutes.

*Estimated Total Annual Burden Hours:* 100.

*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: February 8, 2007.

**Glenn Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E7–2598 Filed 2–14–07; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Revenue Procedure 2001–24

**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 Revenue Procedure 2001–24, Advanced Insurance Commissions.

**DATES:** Written comments should be received on or before April 16, 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 revenue procedure should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Advanced Insurance Commissions.

*OMB Number:* 1545–1736.

*Revenue Procedure Number:* Revenue Procedure 2001–24.

*Abstract:* A taxpayer that wants to obtain automatic consent to change its method of accounting for cash advances on commissions paid to its agents must agree to the specified terms and conditions under the revenue procedure. This agreement is ratified by attaching the required statement to the federal income tax return for the year of change.

*Current Actions:* There are no changes being made to the revenue procedure at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 5,270.

*Estimated Time Per Respondent:* 15 minutes.

*Estimated Total Annual Burden Hours:* 1,318.

*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: February 7, 2007.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E7–2599 Filed 2–14–07; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Revenue Procedure 2006–50

**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 Revenue Procedure 2006–50, Expenses Paid by Certain Whaling Captains in Support of Native Alaskan Subsistence Whaling.

**DATES:** Written comments should be received on or before April 16, 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 revenue procedure should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Expenses Paid by Certain Whaling Captains in Support of Native Alaskan Subsistence Whaling.

*OMB Number:* 1545–2041.

*Revenue Procedure Number:* Revenue Procedure 2006–50.

*Abstract:* This revenue procedure provides the procedures under which the whaling expenses of an individual recognized by the Alaska Eskimo Whaling Commission (AEWC) as a whaling captain charged with the responsibility of maintaining and carrying out sanctioned whaling activities are substantiated for purposes of Internal Revenue Code § 170(n), as enacted by the American Jobs Creation Act of 2004 and effective for whaling expenses incurred after December 31, 2004. Pub. L. No. 109–357, § 335.

*Current Actions:* There are no changes being made to the revenue procedure at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 24.

*Estimated Time Per Respondent:* 2 hours.

*Estimated Total Annual Burden Hours:* 48.

*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: February 7, 2007.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E7–2600 Filed 2–14–07; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Notice 2006–107

**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 Notice 2006–107, Diversification Requirements for Qualified Defined Contribution Plans Holding Publicly Traded Employer Securities.

**DATES:** Written comments should be received on or before April 16, 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 revenue procedure should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Diversification Requirements for Qualified Defined Contribution Plans Holding Publicly Traded Employer Securities.

*OMB Number:* 1545–2049.

*Revenue Procedure Number:* Notice 2006–107.

*Abstract:* This notice provides transitional guidance on § 401(a)(35) of the Internal Revenue Code, added by section 901 of the Pension Protection Act of 2006, Public Law 109–280, 120 Stat. 780 (PPA '06), which provides diversification rights with respect to publicly traded employer securities held by a defined contribution plan. This notice also states that Treasury and the Service expect to issue regulations under § 401(a)(35) that incorporate the transitional relief in this notice and requests comments on the transitional guidance in this notice and on the topics that need to be addressed in the regulations. Current Actions: There are no changes being made to the Notice at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business and other for-profit.

*Estimated Number of Respondents:* 10,300.

*Estimated Time per Respondent:* 45 minutes.

*Estimated Total Annual Burden Hours:* 7,725.

*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: February 7, 2007.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E7–2601 Filed 2–14–07; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 8879–B

**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 8879–B, IRS e-file Signature Authorization for Form 1065–B.

**DATES:** Written comments should be received on or before April 16, 2007 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn 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:* IRS e-file Signature Authorization for Form 1065–B.

*OMB Number:* 1545–2043. Form Number: Form 8879–B.

*Abstract:* Tax year 2006 is the first year that filers of Form 1065–B (electing large corporations can file electronically. Form 8879–B is used when a personal identification number (PIN) will be used to electronically sign the electronic tax return, and, if applicable, consent to an electronic funds withdrawal.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households and business or other for-profit institutions.

*Estimated Number of Respondents:* 60.

*Estimated Time Per Respondent:* 4 hours, 18 minutes.

*Estimated Total Annual Burden Hours:* 258.

*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: February 7, 2007.

**Glenn Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E7–2607 Filed 2–14–07; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 4506–T

**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 4506–T Request for Transcript of Tax Return.

**DATES:** Written comments should be received on or before April 16, 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 R. Joseph Durbala, at, (202) 622–3634, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *RJoseph.Durbala@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Request for Transcript of Tax Return.

*OMB Number:* 1545–1872.

*Form Number:* Form 4506–T.

*Abstract:* Internal Revenue Code section 7513 allows taxpayers to request a copy of a tax return or related products. Form 4506–T is used to request all products except copies of returns. The information provided will be used to search the taxpayers account and provide the requested information and to ensure that the requestor is the taxpayer or someone authorized by the taxpayer to obtain the documents requested.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations, individuals or households, farms, and Federal, state, local, or tribal governments.

*Estimated Number of Respondents:* 720,000.

*Estimated Time Per Respondent:* 1 hr., 2 min.

*Estimated Total Annual Burden Hours:* 555,600.

*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: February 5, 2007.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E7–2609 Filed 2–14–07; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[REG–106542–98]**

### Proposed Collection; Comment Request for Regulation Project

**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 an existing proposed regulation, REG–106542–98, Election to Treat Trust as Part of an Estate (§ 1.645–1).

**DATES:** Written comments should be received on or before April 16, 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 this regulation should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *RJoseph.Durbala@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Election to Treat Trust as Part of an Estate.

*OMB Number:* 1545–1578.

*Regulation Project Number:* REG–106542–98.

*Abstract:* This regulation describes the procedures and requirements for making an election to have certain revocable trusts treated and taxed as part of an estate. The Taxpayer Relief Act of 1997 added section 646 to the Internal Revenue Code to permit the election.

*Current Actions:* There are no changes being made to the regulation at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 10,000.

*Estimated Time per Respondent:* 30 minutes.

*Estimated Total Annual Burden Hours:* 5,000.

*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: February 8, 2007.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E7–2611 Filed 2–14–07; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[INTL–24–94]**

### Proposed Collection; Comment Request for Regulation Project

**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 an existing final regulation, INTL–24–94 (TD 8671), Taxpayer Identifying Numbers (TINs) (§ 301.6109–1).

**DATES:** Written comments should be received on or before April 16, 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 information collection should be directed to R. Joseph Durbala, at (202) 622–3634, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *RJoseph.Durbala@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Taxpayer Identifying Numbers (TINs).

*OMB Number:* 1545–1461.

*Regulation Project Number:* INTL–24–94.

*Abstract:* This regulation relates to requirements for furnishing a taxpayer identifying number on returns, statements, or other documents. Procedures are provided for requesting a taxpayer identifying number for certain alien individuals for whom a social security number is not available. The regulation also requires foreign persons to furnish a taxpayer identifying number on their tax returns.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals.

The burden for the collection of information is reflected in the burden

for Form W–7, Application for IRS Individual Tax Identification Number (For Non-U.S. Citizens or Nationals).

*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: February 8, 2007.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E7–2626 Filed 2–14–07; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Recruitment Notice for the Taxpayer Advocacy Panel

**AGENCY:** Internal Revenue Service (IRS) Treasury.

**ACTION:** Notice.

**SUMMARY:** Notice for Recruitment of IRS Taxpayer Advocacy Panel (TAP) Members.

**DATES:** March 19, 2007 through April 30, 2007.

**FOR FURTHER INFORMATION CONTACT:** Bernard Coston at 404–338–8408.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the Department of the Treasury and the Internal Revenue Service (IRS) are inviting individuals to help improve the nation's tax agency by applying to be members of the TAP.

**Note:** Highly-ranked applicants not selected as members may be placed on a roster of replacements who will be eligible to fill vacancies that may occur on the Panel.

The mission of the TAP is to provide citizen input into enhancing IRS customer satisfaction and service by identifying problems and making recommendations for improvement of IRS systems and procedures and elevating the identified problems to the appropriate IRS official. The TAP serves as an advisory body to the Secretary of the Treasury, the Commissioner of Internal Revenue and the National Taxpayer Advocate. TAP members will participate in subcommittees which channel their feedback to the IRS.

The IRS is seeking applicants who have an interest in good government, a personal commitment to volunteer approximately 300 to 500 hours a year, and a desire to help improve IRS customer service. To the extent possible, the IRS would like to ensure a balanced TAP membership representing a cross-section of the taxpaying public throughout the United States. Potential candidates must be U.S. citizens, compliant with Federal, State and local taxes, and able to pass a background investigation.

TAP Members are a diverse group of citizens who work as valuable partners of the IRS by providing input from taxpayers on ways to improve IRS customer service and administration of the Federal tax system. In order to be an effective member of TAP, applicants must possess the knowledge, skills and abilities necessary to (1) Identify grassroots taxpayer issues by soliciting input directly from taxpayers and (2) work effectively with TAP committees, and IRS program staff, to research and analyze issues, develop solutions, and make recommendations to the IRS on ways to improve programs and procedures. TAP members work to identify and solve problems by actively participating in committee meetings by: expressing their views; listening to the views of others, showing a willingness to explore new ideas, and contributing their knowledge and experience in committee deliberations. TAP Members should have good communications skills and be able to make effective presentations about IRS programs, procedures, and TAP activities, while clearly distinguishing between TAP positions and their personal viewpoints.

Interested applicants should visit the TAP website at www.improveirs.org to complete the on-line application or call the toll free number 1–888–912–1227 to complete the initial phone screen and request that an application be mailed. The opening date for submitting applications is March 19, 2007 and the deadline for submitting applications is April 30, 2007. The most qualified candidates will complete a panel interview. Finalists will be ranked by experience and suitability. The Secretary of the Treasury will review the recommended candidates and make final selections.

Questions regarding the selection of TAP members may be directed to Bernard Coston, Director, Taxpayer Advocacy Panel, Internal Revenue Service at 1111 Constitution Avenue, NW., Room 1314, Washington, DC 20224 or 404–338–8408.

Dated: February 9, 2007.

**John Fay,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. E7–2592 Filed 2–14–07; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of time change.

**SUMMARY:** An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Thursday, March 1, 2007 from 1 p.m. ET.

**FOR FURTHER INFORMATION CONTACT:** Sallie Chavez at 1–888–912–1227, or 954–423–7979.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to section 10 (a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held Thursday, March 1, 2007 from 1:00 p.m. ET via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227

or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org*.

The agenda will include: Various IRS issues.

Dated: February 9, 2007.

**John Fay,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. E7–2594 Filed 2–14–07; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

### Submission for OMB Review; Comment Request—Charter Conversions

**AGENCY:** Office of Thrift Supervision (OTS), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

**DATES:** Submit written comments on or before March 19, 2007.

**ADDRESSES:** Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Office of Information and Regulatory Affairs, Attention: Desk Officer for OTS, U.S. Office of Management and Budget, 725–17th Street, NW., Room 10235, Washington, DC 20503, or by fax to (202) 395–6974; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov*. OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov*. In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755.

**FOR FURTHER INFORMATION CONTACT:** You may access a copy of Form 1582 with the proposed changes in redline on OTS's website at *www.ots.treas.gov* or you may request a copy from Donald W. Dwyer, Director, Applications, (202) 906–6414. To obtain a copy of the submission to OMB, please contact Marilyn K. Burton at *marilyn.burton@ots.treas.gov,* (202) 906–6467, or facsimile number (202) 906–6518, Litigation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:** OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

*OMB Number:* 1550–0007.

*Form Number:* OTS Form 1582.

*Regulation requirement:* 12 CFR 543.8, 543.9, and 552.2–6.

*Description:* Section 5 of the Home Owners' Loan Act and 12 CFR 543.8 and 552.2–6 require OTS to act on requests by depository institutions proposing to convert to Federal savings association charters. With this renewal, OTS is making technical, nonsubstantive changes to Form 1582. The current Form 1582 only addresses applications for conversion from a state-chartered stock or mutual association to a federal stock or mutual association. The revisions made to Form 1582 allow it to be used in applications for approval of conversions of depository institutions to federal savings associations.

*Type of Review:* Renewal.

*Affected Public:* Depository institutions as defined in 12 CFR 552.13.

*Estimated Number of Respondents:* 18.

*Estimated Frequency of Response:* Event-generated.

*Estimated Burden Hours per Response:* 4 hours.

*Estimated Total Burden:* 72 hours.

*Clearance Officer:* Marilyn K. Burton, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

*OMB Reviewer:* Desk Officer for OTS, Fax: (202) 395–6974, U.S. Office of Management and Budget, 725—17th Street, NW., Room 10235, Washington, DC 20503.

Dated: February 9, 2007.

**Deborah Dakin,**

*Senior Deputy Chief Counsel, Regulations and Legislation Division.*

[FR Doc. E7–2648 Filed 2–14–07; 8:45 am]

BILLING CODE 6720–01–P

## DEPARTMENT OF VETERANS AFFAIRS

### Allowance for Private Purchase of an Outer Burial Receptacle in Lieu of a Government-Furnished Graveliner for a Grave in a VA National Cemetery

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** Public Law 104–275 was enacted on October 9, 1996. It allowed the Department of Veterans Affairs (VA) to provide a monetary allowance towards the private purchase of an outer burial receptacle for use in a VA national cemetery. Under VA regulation (38 CFR 38.629), the allowance is equal to the average cost of Government-furnished graveliners less any administrative costs to VA. The law provides a veteran's survivors with the option of selecting a Government-furnished graveliner for use in a VA national cemetery where such use is authorized.

The purpose of this Notice is to notify interested parties of the average cost of Government-furnished graveliners, administrative costs that relate to processing a claim, and the amount of the allowance payable for qualifying interments that occur during calendar year 2007.

**FOR FURTHER INFORMATION CONTACT:** Lisa Ciolek, Budget and Finance Service (41B1), National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. *Telephone:* 202–273–5161 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Under 38 U.S.C. 2306(e)(3) and Pub. L. 104–275, Section 213, VA may provide a monetary allowance for the private purchase of an outer burial receptacle for use in a VA national cemetery where its use is authorized. The allowance for qualified interments that occur during calendar year 2007 is the average cost of Government-furnished graveliners in fiscal year 2006, less the administrative costs incurred by VA in processing and paying the allowance in lieu of the Government-furnished graveliner.

The average cost of Government-furnished graveliners is determined by taking VA's total cost during a fiscal

year for single-depth graveliners that were procured for placement at the time of interment and dividing it by the total number of such graveliners procured by VA during that fiscal year. The calculation excludes both graveliners procured and pre-placed in gravesites as part of cemetery gravesite development projects and all double-depth graveliners. Using this method of computation, the average cost was determined to be $197.67 for fiscal year 2006.

The administrative costs incurred by VA consist of those costs that relate to processing and paying an allowance in lieu of the Government-furnished graveliner. These costs have been determined to be $9.00 for calendar year 2007.

The net allowance payable for qualifying interments occurring during calendar year 2007, therefore, is $188.67.

Approved: February 9, 2007.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

[FR Doc. E7–2663 Filed 2–14–07; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
February 15, 2007

# Part II

# Department of Labor

## Employee Benefits Security Administration

## 29 CFR Parts 2550 and 2578

## Amendments to Safe Harbor for Distributions From Terminated Individual Account Plans and Termination of Abandoned Individual Account Plans To Require Inherited Individual Retirement Plans for Missing Nonspouse Beneficiaries; Final Rule

**DEPARTMENT OF LABOR**

**Employee Benefits Security Administration**

**29 CFR Parts 2550 and 2578**

**RIN 1210–AB16**

# Amendments to Safe Harbor for Distributions From Terminated Individual Account Plans and Termination of Abandoned Individual Account Plans To Require Inherited Individual Retirement Plans for Missing Nonspouse Beneficiaries

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This document contains an interim final rule amending regulations under the Employee Retirement Income Security Act of 1974 (ERISA or the Act) that provide guidance and a fiduciary safe harbor for the distribution of benefits on behalf of participants or beneficiaries in terminated and abandoned individual account plans. The Department is amending these regulations to reflect changes enacted as part of the Pension Protection Act of 2006, Public Law 109–280, to the Internal Revenue Code of 1986 (the Code), under which a distribution of a deceased plan participant's benefit from an eligible retirement plan may be directly transferred to an individual retirement plan established on behalf of the designated nonspouse beneficiary of such participant. Specifically, the amended regulations require as a condition of relief under the fiduciary safe harbor that benefits for a missing, designated nonspouse beneficiary be directly rolled over to an individual retirement plan that fully complies with Code requirements. This interim final rule will affect fiduciaries, plan service providers, and participants and beneficiaries of individual account pension plans.

**DATES:** *Effective and Applicability Dates:* The amendments made by this rule are effective March 19, 2007. This interim final rule is applicable to distributions made on or after March 19, 2007.

*Comment Date:* Written comments must be received by April 2, 2007.

**ADDRESSES:** To facilitate the receipt and processing of comments, the Department encourages interested persons to submit their comments electronically by e-mail to *e-ORI@dol.gov,* or by using the Federal eRulemaking portal at *www.regulations.gov* (follow instructions for submission of comments). Persons submitting comments electronically are encouraged not to submit paper copies. Persons interested in submitting comments on paper should send or deliver their comments (at least three copies) to the Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N–5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, *Attn:* Amendments to Distribution Safe Harbor and Abandoned Plans Regulation for Missing Nonspouse Beneficiaries. All comments received will be available to the public, without charge, online at *www.regulations.gov* and *www.dol.gov/ebsa,* and at the Public Disclosure Room, Employee Benefits Security Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Stephanie L. Ward, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693–8500. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:**

## A. Background

This interim final rule amends two regulations under ERISA that facilitate the termination of individual account plans, including abandoned individual account plans, and the distribution of benefits from such plans. The first regulation, codified at 29 CFR 2550.404a–3, provides plan fiduciaries of terminated plans and qualified termination administrators (QTAs) of abandoned plans with a fiduciary safe harbor for making distributions on behalf of participants or beneficiaries who fail to make an election regarding a form of benefit distribution, commonly referred to as missing participants or beneficiaries. The second regulation, codified at 29 CFR 2578.1, establishes a procedure for financial institutions holding the assets of an abandoned individual account plan to terminate the plan and distribute benefits to the plan's participants or beneficiaries, with limited liability.[1] Appendices to these two regulations contain model notices for notifying participants or beneficiaries of the plan's termination and distribution options.

The safe harbor regulation provides that both a fiduciary and a QTA will be deemed to have satisfied ERISA's prudence requirements under section 404(a) of the Act if the conditions of the safe harbor are met with respect to the distribution of benefits on behalf of missing participants from terminated individual account plans.[2] In general, the regulation provides that a fiduciary or QTA qualifies for the safe harbor if a distribution is made to an individual retirement plan within the meaning of section 7701(a)(37) of the Code. See § 2550.404a–3(d)(1)(i). However in April 2006, when the Department published this safe harbor regulation, a distribution of benefits from an individual account plan to a nonspouse beneficiary was not considered an eligible rollover distribution under the provisions of section 402(c) of the Code and, therefore, could not be rolled over into an individual retirement plan.[3] As a result, the safe harbor regulation mandated, among other requirements, the distribution of benefits on behalf of a missing nonspouse beneficiary to an account that was not an individual retirement plan. See § 2550.404a–3(d)(1)(ii). Consequently, such distributions were subject to income tax and mandatory tax withholding in the year distributed into the account.[4]

The Pension Protection Act changed the characterization of certain distributions from tax exempt plans and trusts to permit such distributions to qualify for eligible rollover distribution treatment.[5] Section 829 of the Pension Protection Act amended section 402(c) of the Code to permit the direct rollover of a deceased participant's benefit from an eligible retirement plan to an individual retirement plan established on behalf of a designated nonspouse beneficiary.[6] These rollover distributions would not trigger immediate income tax consequences and mandatory tax withholding for the nonspouse beneficiary.

In light of the Pension Protection Act's changes to the Code allowing a rollover distribution on behalf of a nonspouse beneficiary into an inherited individual retirement plan with the resulting deferral of income tax consequences, the Department is amending the regulatory safe harbor for distributions from a terminated

[1] Under § 2578.1(d)(2)(vii)(B), a QTA is directed to make distributions in accordance with the safe harbor regulation.

[2] 71 FR 20830 n. 21.

[3] See 26 CFR 1.402(c)–2, Q&A–12.

[4] 71 FR 20828 n.14.

[5] Section 829 of the Pension Protection Act.

[6] Section 829 of the Pension Protection Act requires that the individual retirement plan established on behalf of a nonspouse beneficiary must be treated as an inherited individual retirement plan within the meaning of Code § 408(d)(3)(C) and must be subject to the applicable mandatory distribution requirements of Code § 401(a)(9)(B).

individual account plan, including an abandoned plan, at 29 CFR 2550.404a–3. These amendments require that a deceased participant's benefit be directly rolled over to an inherited individual retirement plan established to receive the distribution on behalf of a missing, designated nonspouse beneficiary. These amendments eliminate the prior safe harbor condition that required a distribution on behalf of a missing nonspouse beneficiary to be made only to an account other than an individual retirement plan. See § 2550.404a–3(d)(1)(ii). Therefore, when these amendments become applicable, a distribution on behalf of a missing nonspouse beneficiary would satisfy this condition of the safe harbor only if directly rolled into an individual retirement plan that satisfies the requirements of new section 402(c)(11) of the Code.[7]

Conforming changes are made to the content requirements of the mandated participant and beneficiary termination notice and its model notice under the safe harbor (at the Appendix to § 2550.404a–3). The amendments to 29 CFR 2578.1 also make conforming changes to the content of the required participant and beneficiary termination notice and model notice for abandoned plans (at Appendix C to § 2578.1).

Concurrently with publication of this rule, the Department is publishing proposed amendments to PTE 2006–06,[8] which, when finalized, will clarify that the exemption provides relief to a QTA that designates itself or an affiliate as the provider of an inherited individual retirement plan for a missing, designated nonspouse beneficiary pursuant to the exemption's conditions. As noted in the preamble to the proposed amendments, however, the Department interprets PTE 2006–06 as currently available to the QTA for its self-selection as an inherited individual retirement plan provider subject to the conditions of the exemption.

**B. Request for Comments**

The Department invites comments from interested persons on all aspects of the interim final rule. To facilitate the receipt and processing of comments, the Department encourages interested persons to submit their comments electronically by e-mail to *e-ORI@dol.gov*, or by using the Federal eRulemaking portal at *www.regulations.gov* (follow instructions for submission of comments). Persons submitting comments electronically are encouraged not to submit paper copies. Persons interested in submitting comments on paper should send or deliver their comments (at least three copies) to the Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N–5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, *Attn:* Amendments to Distribution Safe Harbor and Abandoned Plans Regulation for Missing Nonspouse Beneficiaries. All comments will be available to the public, without charge, at *www.regulations.gov* and *www.dol.gov/ebsa*, and in the Public Disclosure Room, N–1513, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC.

**C. Amendments Relating to the Safe Harbor for Distributions From Terminated Individual Account Plans**

*1. Section 2550.404a–3(d)—Conditions*

Paragraph (d)(1)(ii) of this section requires that the distribution of benefits on behalf of a nonspouse beneficiary of a participant be made to ''an account (other than an individual retirement plan)'' because historically such distribution was not eligible for rollover into an individual retirement plan. This condition is being revised to require that the distribution of benefits on behalf of a designated nonspouse beneficiary be rolled over into an inherited individual retirement plan that complies with the requirements of section 402(c)(11) of the Code, as permitted under the Pension Protection Act for distributions occurring after December 31, 2006.

Paragraph (d)(1)(iii)(C) of this section permits as an alternative distribution option that certain small benefits on behalf of a nonspouse beneficiary of a participant be distributed to ''an account (other than an individual retirement plan)'' that a financial institution, other than the qualified termination administrator, provides to the public at the time of the distribution. This alternative option is similarly being revised to require the rollover of benefits on behalf of a designated nonspouse beneficiary to an inherited individual retirement plan.

Paragraph (d)(2)(ii)(A) of this section is being revised to incorporate the appropriate cross references to individual retirement plan and inherited individual retirement plan and eliminate reference to ''other account.''

Paragraphs (d)(2)(iii), (d)(2)(iv) and (d)(3) of this section are being revised to incorporate the appropriate cross references to individual retirement plan and inherited individual retirement plan, and bank or savings association accounts for certain small amounts.

*2. Section 2550.404a–3(e)—Notice to Participants and Beneficiaries*

Paragraphs (e)(1)(iv), (e)(1)(v) and (e)(1)(vi) of this section are being revised to incorporate the appropriate cross references to individual retirement plan and inherited individual retirement plan and eliminate reference to ''other account.''

*3. Section 2550.404a–3(f)—Model Notice*

The appendix to this section contains a Notice of Plan Termination for terminated individual account plans other than abandoned plans that currently includes an optional paragraph referring to distributions to nonspouse beneficiaries. This paragraph is being deleted because distributions to nonspouse beneficiaries will no longer be required to be made to accounts other than individual retirement plans. A parenthetical is being added to the fourth paragraph to clarify that individual retirement plans established on behalf of missing, designated nonspouse beneficiaries are inherited individual retirement plans.

**D. Amendments Relating to the Termination of Abandoned Individual Account Plans**

*1. Section 2578.1(d)(2)(vi)—Notify Participants*

Paragraph (d)(2)(vi)(A)(5)(ii) of this section is being revised to incorporate the appropriate cross reference to conditions for rollovers on behalf of nonspouse beneficiaries in § 2550.404a–3(d)(1)(ii).

Paragraphs (d)(2)(vi)(A)(5)(iii) and (d)(2)(vi)(A)(6) of this section are being revised to incorporate the appropriate cross references to individual retirement plan and inherited individual retirement plan in § 2550.404a–3(d)(1)(i) and (d)(1)(ii) and eliminate reference to ''account.''

Paragraphs (d)(2)(vi)(A)(7) and (d)(2)(vi)(A)(8) of this section are being revised to incorporate the appropriate cross references to individual retirement plan and inherited individual retirement plan in § 2550.404a–3(d)(1)(i) and (d)(1)(ii).

*2. Section 2578.1(i)—Model notices*

Appendix C to this section contains a Notice of Plan Termination for abandoned plans that currently includes an optional paragraph (''Option 2'') referring to distributions to nonspouse

[7] See also I.R.S. Notice 2007–07 (January 10, 2007).

[8] 71 FR 20856 (April 21, 2006).

beneficiaries. This optional paragraph is being deleted because distributions to nonspouse beneficiaries will no longer be required to be made to accounts other than individual retirement plans. To conform to this change, the instructions for ''Option 1'' are being revised to delete reference to ''participant's spouse.'' ''Option 3'' is renumbered as ''Option 2'' and the instructions are revised to eliminate reference to ''(or special account for non-spousal beneficiaries if you are a beneficiary other than the participant's spouse)'' and ''(or special non-spousal account).'' A parenthetical is being added to Option 1 and Option 2 to clarify that individual retirement plans established on behalf of missing, designated nonspouse beneficiaries are inherited individual retirement plans. ''Option 4'' is renumbered as ''Option 3.''

**E. Good Cause Finding That Proposed Rulemaking Unnecessary**

Rulemaking under section 553 of the Administrative Procedure Act (APA) ordinarily involves publication of a notice of proposed rulemaking in the **Federal Register** and the public is given an opportunity to comment on the proposed rule. The APA authorizes agencies to dispense with proposed rulemaking procedures, however, if they find both good cause that such procedures are impracticable, unnecessary, or contrary to the public interest, and incorporate a statement of the finding with the underlying reasons in the interim final rule issued.

In this case, the Department finds that it is unnecessary to undertake proposed rulemaking with regard to the amendments to the regulatory safe harbor for distributions from a terminated individual account plan, including an abandoned plan. The Department believes such rulemaking is unnecessary because it views these amendments to an existing regulatory scheme as technical, noncontroversial and merely adaptive of recent Code changes allowing distributions on behalf of missing nonspouse beneficiaries of deceased participants to be rolled over into tax-advantaged individual retirement plans. The Department therefore finds for good cause that notice and public procedure is unnecessary. It is publishing these amendments as an interim final rule and is including a request for comment.

**F. Regulatory Impact Analysis**

*Summary*

By conforming regulations pertaining to distributions from certain terminated plans with recent changes to the Code, this interim final rule preserves for certain nonspouse beneficiaries of deceased participants the opportunity to take advantage of preferential tax treatment newly permitted by the Pension Protection Act for distributions after December 31, 2006. Nonspouse beneficiaries will benefit from the preservation, on their behalf, of tax-favored savings set aside for retirement. This interim final rule also will affect plan fiduciaries, including QTAs, by altering the procedures applicable to certain termination distributions. The Department anticipates that, rather than increasing costs, these amendments will reduce compliance costs modestly for plan fiduciaries and QTAs. Because the rule's new distribution procedures for terminated plans apply only to the narrow group of nonspouse beneficiaries who have not returned a distribution election, the Department believes that the rule's economic impact will be small, overall, but positive.[9]

*Executive Order 12866 Statement*

Under Executive Order 12866, the Department must determine whether a regulatory action is ''significant'' and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Under section 3(f) of the Executive Order, a ''significant regulatory action'' is an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. The Department has determined that this regulatory action is not economically significant within the meaning of section 3(f)(1) of the Executive Order. However, the Office of Management and Budget (OMB) has determined that the action is significant within the meaning of section 3(f)(4) of the Executive Order, and the Department, accordingly, provides the following assessment of its potential costs and benefits.

*Costs*

Plan fiduciaries and QTAs generally are not expected to change their use of service providers in connection with the termination and winding-up of plans as a result of the amendments made by this interim final rule. In addition, costs related to selecting institutions and establishing appropriate accounts and investments for benefits directly transferred to an inherited individual retirement plan are expected to be the same as costs related to establishing other types of accounts on behalf of nonspouse beneficiaries. The safeguards included in the safe harbor regulation to preserve assets, such as requiring that fees and expenses do not exceed certain limits, apply to both individual retirement plans and other accounts. Fiduciaries and QTAs that currently select separate institutions for making tax-deferred and taxable distributions may have modest administrative cost savings as a result of this rule because they will be able to distribute nonspouse benefits to inherited individual retirement plans with the same institutions to which other tax-deferred distributions are made.

Plan fiduciaries and QTAs also will have reduced administrative costs as a result of not having to comply with otherwise applicable mandatory tax withholding requirements under the Code. The distribution of benefits to an account other than an individual retirement plan is considered a lump sum distribution under the Code, requiring a plan administrator to withhold a percentage of the taxable amount and send the withheld amount to the Internal Revenue Service as income tax withholding. This requirement to withhold does not apply to distributions made to inherited individual retirement plans. As the safe harbor regulation requires the rollover of distributions, except for certain small benefits, the administrative costs associated with mandatory tax withholding will be reduced.

[9] As described earlier, the Department is publishing, concurrently with publication of this rule, proposed amendments to PTE 2006–06, which will establish under the conditions of the exemption that a QTA may designate itself or an affiliate as the provider of an inherited individual retirement plan for a nonspouse beneficiary who has not returned a distribution election. In assessing the economic costs and benefits of this interim final rule, the Department has taken into account the proposed amendments to PTE 2006–06, which will make explicit the availability of the conditional relief to parties that follow the amended rules with respect to nonspouse distributions, a result that the Department believes will assist in the achievement of the purposes underlying the regulations.

*Benefits*

When the Department published the safe harbor regulation for distributions from terminated individual account plans in April 2006, it was designed, in part, to prevent participants and beneficiaries of terminated plans, insofar as then possible under the Code, from losing the favorable tax treatment otherwise accorded distributions from qualified plans. As a result, the safe harbor regulation generally mandated that benefits on behalf of a participant or spouse be distributed to an individual retirement plan. Tax laws then in effect prevented the Department from extending this favorable tax treatment to nonspouse beneficiaries. This interim final rule, which takes into account the Pension Protection Act change enabling a nonspouse beneficiary to be treated as inheriting an individual retirement plan, will benefit nonspouse beneficiaries by enabling them to have continued tax-deferral of retirement savings, similar to that available to participants and spouses.

As described earlier in the preamble, nonspouse beneficiaries will benefit from continued deferral of income taxes and distributions that are not subject to mandatory tax withholding. Under the new tax rules, distributions from an inherited individual retirement plan will have to be made under the Code's minimum distribution rules. While these distribution rules are generally more restrictive than what is allowed for participants and spouses, the Department believes that the additional period of tax deferral permitted under the new tax rules will be a significant benefit to nonspouse beneficiaries. Because benefits will continue to be held in tax-advantaged retirement vehicles, the interim final rule also serves to preserve retirement savings. At the same time, nonspouse beneficiaries retain the benefit of being able to make a distribution election and to elect a lump sum distribution if they choose.

Based on the foregoing assessment, the Department concludes that promulgation of this interim final rule will provide substantial benefits without imposing additional costs.

**Paperwork Reduction Act**

The information collections included in this interim final rule, together with information collections included in PTE 2006–06, are currently approved by the Office of Management and Budget (OMB) under OMB control number 1210–0127. This approval is currently scheduled to expire on April 30, 2008. The interim final rule makes minor changes to the content requirements of the participant and beneficiary termination notices, as described earlier in the preamble. These conforming changes, which involve the deletion or substitution of a small number of words in each notice, do not increase the burden of the information collections and do not constitute a substantive or material modification of the existing information collection request approved under OMB control number 1210–0127. Accordingly, the Department has not made a submission for OMB approval of a revision in the burden estimates in connection with this interim final rule or the proposed amendments to PTE 2006–06, published simultaneously with this interim final rule.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and are likely to have a significant economic impact on a substantial number of small entities. Because these amendments are being published as an interim final rule, without prior notice and comment, the Regulatory Flexibility Act does not apply. Furthermore, because the interim final rule imposes no additional costs on employers or plans, the Department believes that it would not have a significant impact on a substantial number of small entities. Accordingly, the Department believes that no regulatory flexibility analysis would be required in any case under the RFA.

*Congressional Review Act Statement*

The interim final rule being issued here is subject to the provisions of the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and will be transmitted to Congress and the Comptroller General for review. The interim final rule is not a ''major rule'' as that term is defined in 5 U.S.C. 804, because it does not result in (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, or Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

*Unfunded Mandates Reform Act*

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the interim final rule does not include any Federal mandate that may result in expenditures by State, local, or tribal governments, or impose an annual burden exceeding $100 million on the private sector.

*Federalism Statement*

Executive Order 13132 (August 4, 1999) outlines fundamental principles of federalism and requires Federal agencies to adhere to specific criteria in the process of their formulation and implementation of policies that have substantial direct effects on the States, the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This interim final rule does not have federalism implications because it has no 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. Section 514 of ERISA provides, with certain exceptions specifically enumerated, that the provisions of Titles I and IV of ERISA supersede any and all laws of the States as they relate to any employee benefit plan covered under ERISA. The requirements implemented in the interim rule do not alter the fundamental provisions of the statute with respect to employee benefit plans, and as such would have no implications for the States or the relationship or distribution of power between the national government and the States.

**List of Subjects**

*29 CFR Part 2550*

Employee benefit plans, Employee Retirement Income Security Act, Employee stock ownership plans, Exemptions, Fiduciaries, Investments, Investments foreign, Party in interest, Pensions, Pension and Welfare Benefit Programs Office, Prohibited transactions, Real estate, Securities, Surety bonds, Trusts and Trustees.

*29 CFR Part 2578*

Employee benefit plans, Pensions, Retirement.

■ For the reasons set forth in the preamble, the Department of Labor amends 29 CFR chapter XXV as follows:

**Title 29—Labor**

Subchapter F—Fiduciary Responsibility Under the Employee Retirement Income Security Act of 1974

## PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

■ 1. The authority citation for part 2550 continues to read as follows:

**Authority:** 29 U.S.C. 1135; and Secretary of Labor's Order No. 1–2003, 68 FR 5374 (Feb. 3, 2003). Sec. 2550.401b–1 also issued under sec. 102, Reorganization Plan No. 4 of 1978, 43 FR 47713 (Oct. 17, 1978), 3 CFR, 1978 Comp. 332, effective Dec. 31, 1978, 44 FR 1065 (Jan. 3, 1978), 3 CFR, 1978 Comp. 332. Sec. 2550.401c–1 also issued under 29 U.S.C. 1101. Sec. 2550.404c–1 also issued under 29 U.S.C. 1104. Sec. 2550.407c–3 also issued under 29 U.S.C. 1107. Sec. 2550.404a–2 also issued under 26 U.S.C. 401 note (sec. 657, Pub. L. 107–16, 115 Stat. 38). Sec. 2550.408b–1 also issued under 29 U.S.C. 1108(b)(1) and sec. 102, Reorganization Plan No. 4 of 1978, 3 CFR, 1978 Comp. p. 332, effective Dec. 31, 1978, 44 FR 1065 (Jan. 3, 1978), and 3 CFR, 1978 Comp. 332, Sec. 2550.412–1 also issued under 29 U.S.C. 1112.

■ 2. Amend § 2550.404a–3 by revising (d)(1)(ii), (d)(1)(iii)(C), (d)(2)(ii)(A), (d)(2)(iii), (d)(2)(iv), (d)(3), (e)(1)(iv), (e)(1)(v), (e)(1)(vi) and the appendix to read as follows:

### § 2550.404a–3 Safe Harbor for Distributions from Terminated Individual Account Plans.

* * * * *

(d) * * *

(1) * * *

(ii) In the case of a distribution on behalf of a designated beneficiary (as defined by section 401(a)(9)(E) of the Code) who is not the surviving spouse of the deceased participant, to an inherited individual retirement plan (within the meaning of section 402(c)(11) of the Code) established to receive the distribution on behalf of the nonspouse beneficiary; or

(iii) * * *

* * * * *

(C) An individual retirement plan (described in paragraph (d)(1)(i) or (d)(1)(ii) of this section) offered by a financial institution other than the qualified termination administrator to the public at the time of the distribution.

(2) * * *

(ii) * * *

(A) Seek to maintain, over the term of the investment, the dollar value that is equal to the amount invested in the product by the individual retirement plan (described in paragraph (d)(1)(i) or (d)(1)(ii) of this section), and

* * * * *

(iii) All fees and expenses attendant to the transferee plan (described in paragraph (d)(1)(i) or (d)(1)(ii) of this section) or account (described in paragraph (d)(1)(iii)(A) of this section), including investments of such plan, (e.g., establishment charges, maintenance fees, investment expenses, termination costs and surrender charges), shall not exceed the fees and expenses charged by the provider of the plan or account for comparable plans or accounts established for reasons other than the receipt of a distribution under this section; and

(iv) The participant or beneficiary on whose behalf the fiduciary makes a distribution shall have the right to enforce the terms of the contractual agreement establishing the plan (described in paragraph (d)(1)(i) or (d)(1)(ii) of this section) or account (described in paragraph (d)(1)(iii)(A) of this section), with regard to his or her transferred account balance, against the plan or account provider.

(3) Both the fiduciary's selection of a transferee plan (described in paragraph (d)(1)(i) or (d)(1)(ii) of this section) or account (described in paragraph (d)(1)(iii)(A) of this section) and the investment of funds would not result in a prohibited transaction under section 406 of the Act, unless such actions are exempted from the prohibited transaction provisions by a prohibited transaction exemption issued pursuant to section 408(a) of the Act.

(e) * * *

(1) * * *

(iv) A statement explaining that, if a participant or beneficiary fails to make an election within 30 days from receipt of the notice, the plan will distribute the account balance of the participant or beneficiary to an individual retirement plan (i.e., individual retirement account or annuity described in paragraph (d)(1)(i) or (d)(1)(ii) of this section) and the account balance will be invested in an investment product designed to preserve principal and provide a reasonable rate of return and liquidity;

(v) A statement explaining what fees, if any, will be paid from the participant or beneficiary's individual retirement plan (described in paragraph (d)(1)(i) or (d)(1)(ii) of this section), if such information is known at the time of the furnishing of this notice;

(vi) The name, address and phone number of the individual retirement plan (described in paragraph (d)(1)(i) or (d)(1)(ii) of this section) provider, if such information is known at the time of the furnishing of this notice; and

* * * * *

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APPENDIX TO § 2550.404a-3

**NOTICE OF PLAN TERMINATION**

[*Date of notice*]

[*Name and last known address of plan participant or beneficiary*]

Re: [*Name of plan*]

Dear [*Name of plan participant or beneficiary*]:

This notice is to inform you that [*name of the plan*] (the Plan) has been terminated and we are in the process of winding it up.

We have determined that you have an interest in the Plan, either as a plan participant or beneficiary. Your account balance in the Plan on [*date*] is/was [*account balance*]. We will be distributing this money as permitted under the terms of the Plan and federal regulations. {*If applicable, insert the following sentence:* The actual amount of your distribution may be more or less than the amount stated in this notice depending on investment gains or losses and the administrative cost of terminating your plan and distributing your benefits.}

Your distribution options under the Plan are {*add a description of the Plan's distribution options*}. It is very important that you elect one of these forms of distribution and inform us of your election. The process for informing us of this election is {*enter a description of the Plan's election process*}.

If you do not make an election within 30 days from your receipt of this notice, your account balance will be transferred directly to an individual retirement plan (inherited individual retirement plan in the case of a nonspouse beneficiary). {*If the name of the provider of the individual retirement plan is known, include the following sentence:* The name of the provider of the individual retirement plan is [*name, address and phone number of the individual retirement plan provider*].} Pursuant to federal law, your money in the individual retirement plan would then be invested in an investment product designed to preserve principal and provide a reasonable rate of return and liquidity. {*If fee information is known, include the following sentence:* Should your money be transferred into an individual retirement plan, [*name of the financial institution*] charges the following fees for its services: {*add a statement of fees, if any, that will be paid from the participant or beneficiary's individual retirement plan*}.}

For more information about the termination, your account balance, or distribution options, please contact [*name, address, and telephone number of the plan administrator or other appropriate contact person*].

Sincerely,
[*Name of plan administrator or appropriate designee*]

**Subchapter G—Administration and Enforcement Under the Employee Retirement Income Security Act of 1974**

## PART 2578—RULES AND REGULATIONS FOR ABANDONED PLANS

■ 3. The authority citation for part 2578.1 continues to read as follows:

**Authority:** 29 U.S.C. 1135; 1104(a); 1103(d)(1).

■ 4. Amend § 2578.1 by revising (d)(2)(vi)(A)(*5*)(*ii*), (d)(2)(vi)(A)(*5*)(*iii*), (d)(2)(vi)(*A*)(*6*), (d)(2)(vi)(*A*)(*7*), (d)(2)(vi)(*A*)(*8*) and Appendix C to read as follows:

### § 2578.1 Termination of Abandoned Individual Account Plans

* * * * *

(d) * * *

(2) * * *

(vi) * * *

(A) * * *

(*5*) * * *

(*ii*) To an inherited individual retirement plan described in § 2550.404a–3(d)(1)(ii) of this chapter (in the case of a distribution on behalf of a distributee other than a participant or spouse),

(*iii*) In any case where the amount to be distributed meets the conditions in § 2550.404a–3(d)(1)(iii), to an interest-bearing federally insured bank account, the unclaimed property fund of the State of the last known address of the participant or beneficiary, or an individual retirement plan (described in § 2550.404a–3(d)(1)(i) or (d)(1)(ii) of this chapter) or

* * * * *

(*6*) In the case of a distribution to an individual retirement plan (described in § 2550.404a–3(d)(1)(i) or (d)(1)(ii) of this chapter) a statement explaining that the account balance will be invested in an investment product designed to preserve principal and provide a reasonable rate of return and liquidity;

(*7*) A statement of the fees, if any, that will be paid from the participant or beneficiary's individual retirement plan (described in § 2550.404a–3(d)(1)(i) or (d)(1)(ii) of this chapter) or other account (described in § 2550.404a–3(d)(1)(iii)(A) of this chapter), if such information is known at the time of the furnishing of this notice;

(*8*) The name, address and phone number of the provider of the individual retirement plan (described in § 2550.404a7–3(d)(1)(i) or (d)(1)(ii) of this chapter), qualified survivor annuity, or other account (described in § 2550.404a–3(d)(1)(iii)(A) of this chapter), if such information is known at the time of the furnishing of this notice; and

* * * * *

APPENDIX C TO § 2578.1

**NOTICE OF PLAN TERMINATION**

[*Date of notice*]

[*Name and last known address of plan participant or beneficiary*]

Re: [*Name of plan*]

Dear [*Name of plan participant or beneficiary*]:

We are writing to inform you that the [*name of plan*] (Plan) has been terminated pursuant to regulations issued by the U.S. Department of Labor. The Plan was terminated because it was abandoned by [*name of the plan sponsor*].

We have determined that you have an interest in the Plan, either as a plan participant or beneficiary. Your account balance on [*date*] is/was [*account balance*]. We will be distributing this money as permitted under the terms of the Plan and federal regulations. The actual amount of your distribution may be more or less than the amount stated in this letter depending on investment gains or losses and the administrative cost of terminating the Plan and distributing your benefits.

Your distribution options under the Plan are {*add a description of the Plan's distribution options*}. It is very important that you elect one of these forms of distribution and inform us of your election. The process for informing us of this election is {*enter a description of the election process established by the qualified termination administrator*}.

{*Select the next paragraph from options 1 through 3, as appropriate.*}

{*Option 1: If this notice is for a participant or beneficiary, complete and include the following paragraph provided the account balance does not meet the conditions of §2550.404a-3(d)(1)(iii).*}

If you do not make an election within 30 days from your receipt of this notice, your account balance will be transferred directly to an individual retirement plan (inherited individual retirement plan in the case of a nonspouse beneficiary) maintained by {*insert the name, address, and phone number of the provider if known, other wise insert the following language* [a bank or insurance company or other similar financial institution]}. Pursuant to federal law, your money in the individual retirement plan would then be invested in an investment product designed to preserve principal and provide a reasonable rate of return and liquidity. {*If fee information is known, include the following sentence:* Should your money be transferred into an individual retirement plan, [*name of the financial institution*] charges the following fees for its services: {*add a statement of fees, if any, that will be paid from the participant or beneficiary's individual retirement plan*}.}

{*Option 2: If this notice is for a participant or beneficiary whose account balance meets the conditions of §2550.404a-3(d)(1)(iii), complete and include the following paragraph.*}

If you do not make an election within 30 days from your receipt of this notice, and your account balance is $1,000 or less, federal law permits us to transfer your balance to an interest-bearing federally insured bank account, to the unclaimed property fund of the State of your last known address, or to an individual retirement plan (inherited individual retirement plan in the case of a nonspouse beneficiary). Pursuant to federal law, your money, if transferred to an individual retirement plan would then be invested in an investment product designed to preserve principal and provide a reasonable rate of return and liquidity. {*If known, include the name, address, and telephone number of the financial institution or State fund into which the individual's account balance will be transferred or deposited. If the individual's account balance is to be transferred to a financial institution and fee information is known, include the following sentence:* Should your money be transferred into a plan or account, [*name of the financial institution*] charges the following fees for its services: {*add a statement of fees, if any, that will be paid from the individual's account*}.}

{*Option 3: If this notice is for a participant or participant's spouse whose distribution is subject to the survivor annuity requirements in sections 401(a)(11) and 417 of the Internal Revenue Code (or section 205 of ERISA), complete and include the following paragraph.*}

If you do not make an election within 30 days from your receipt of this notice, your account balance will be distributed in the form of a qualified joint and survivor annuity or qualified preretirement annuity as required by the Internal Revenue Code. {*If the name of the annuity provider is known, include the following sentence:* The name of the annuity provider is [*name, address and phone number of the provider*].}

For more information about the termination, your account balance, or distribution options, please contact [*name, address, and telephone number of the qualified termination administrator and, if different, the name, address, and telephone number of the appropriate contact person*].

Sincerely,
[*Name of qualified termination administrator or appropriate designee*]

Signed at Washington, DC, this 5th day of February, 2007.

**Bradford P. Campbell,**

*Acting Assistant Secretary, Employee Benefits Security Administration, Department of Labor.*

[FR Doc. 07–597 Filed 2–14–07; 8:45 am]

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Federal Register

Thursday,
February 15, 2007

# Part III

# Department of Transportation

## Federal Transit Administration

**49 CFR Part 604**
**Charter Service; Proposed Rule**

**DEPARTMENT OF TRANSPORTATION**

**Federal Transit Administration**

**49 CFR Part 604**

**[Docket No. FTA–2005–22657]**

**RIN 2132–AA85**

## Charter Service

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Pursuant to the direction contained in the Joint Explanatory Statement of the Committee of Conference, for section 3023(d), ''Condition on Charter Bus Transportation Service'' of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) of 2005, the Federal Transit Administration (FTA) established a committee to develop, through negotiated rulemaking procedures, recommendations for improving the regulation regarding unauthorized competition from recipients of Federal financial assistance. The proposed revisions contained in this notice of proposed rulemaking (NPRM) represent a complete revision to the charter service regulations contained in 49 CFR part 604. The NPRM contains the consensus work product of the Charter Bus Negotiated Rulemaking Advisory Committee (CBNRAC), which was able to reach consensus on a majority of the regulatory language. Where the CBNRAC was unable to reach consensus, FTA proposes revisions to the charter service regulations based on the open, informed exchange of information that took place during meetings with the CBNRAC.

**DATES:** Comments must be received by April 16, 2007. Late filed comments will be considered to the extent practicable.

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

*Federal e-Rulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

*Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.

*Fax:* 202–493–2251.

*Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, PL–401, Washington, DC 20590–0001.

*Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Instructions:* When submitting comments electronically to Department's Docket Management System (DMS) Web site located at *http://dms.dot.gov*, you must use docket number 22657. This will ensure that your comment is placed in the correct docket. If you submit comments by mail, you should submit two copies and include the above docket number. If you wish to receive confirmation that FTA received your comments, you must include a self-addressed stamped postcard. Note that all comments received will be posted without change to *http://dms.dot.gov.* This means that if your comment includes any personal identifying information, such information will be made available to users of DMS. You may review the Department's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Linda Lasley, Senior Advisor, Office of the Administrator, Federal Transit Administration, 400 Seventh Street, SW., Room 9328, Washington, DC 20590, (202) 366–4011 or *Linda.Lasley@dot.gov;* Nancy-Ellen Zusman, Attorney-Advisor, Office of the Chief Counsel, 200 West Adams Street, Suite 320, Chicago, IL 60606, (312) 353–2789 or *Nancy-Ellen.Zusman@dot.gov;* or Elizabeth Martineau, Attorney-Advisor, Office of the Chief Counsel, 400 Seventh Street, SW., Room 9316, Washington, DC 20590, (202) 366–1966 or *Elizabeth.Martineau@dot.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Statutory Authority

Pursuant to the direction contained in the Joint Explanatory Statement of the Committee of Conference, for section 3023(d), ''Conditions on Charter Bus Transportation Service'' of SAFETEA–LU, FTA established a Federal Advisory Committee on May 5, 2005, to develop recommendations through negotiated rulemaking procedures for improvement of the regulation regarding unauthorized competition from recipients of Federal financial assistance.

### II. Advisory Committee

The Charter Bus Negotiated Rulemaking Advisory Committee (CBNRAC) consisted of persons who represented the interests affected by the proposed rule (i.e., charter bus companies, public transportation agencies—recipients of FTA grant funds), and other interested entities. The CBNRAC included the following organizations:

American Association of State Highway and Transportation Officials;
American Bus Association;
American Public Transportation Association;
Amalgamated Transit Union;
Capital Area Transportation Authority;
Coach America;
Coach USA;
Community Transportation Association of America;
FTA;
Kansas City Area Transportation Authority;
Lancaster Trailways of the Carolinas;
Los Angeles County Municipal Operators Association
Monterey Salinas Transit;
National School Transportation Association;
New York State Metropolitan Transportation Authority;
Northwest Motorcoach Association/Starline Luxury Coaches;
Oklahoma State University/The Bus Community Transit System;
River Cities Transit;
Southwest Transit Association;
Taxicab, Limousine & Paratransit Association;
Trailways; and
United Motorcoach Association.

The CBNRAC met in Washington, DC on the following dates:

May 8–9
June 19–20
July 17–18
September 12–13
October 25–26
December 6–7

FTA hired Susan Podziba & Associates to facilitate the CBNRAC meetings and prepare meeting summaries. All meeting summaries, including materials distributed during the meetings, are contained in the docket for this rulemaking (#22657). During the first meeting of the CBNRAC, the committee developed ground rules for the negotiations, which are summarized briefly below:

○ The CBNRAC operates by consensus, meaning that agreements are considered reached when there is no dissent by any member. Thus, no member can be outvoted.

○ Work groups can be designated by the CBNRAC to address specific issues or to develop proposals. Work groups are not authorized to make decisions for the full CBNRAC.

○ All consensus agreements reached during the negotiations are assumed to be tentative agreements contingent upon additional minor revisions to the language until members of the CBNRAC

reach final agreement on regulatory language. Once final consensus is achieved, the CBNRAC members may not thereafter withdraw from the consensus.

○ Once the CBNRAC reaches consensus on specific provisions of a proposed rule, FTA, consistent with its legal obligations, will incorporate this consensus into its proposed rule and publish it in the **Federal Register**. This provides the required public notice under the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, and allows for a public comment period. Under the APA, the public retains the right to comment. FTA anticipates, however, that the pre-proposal consensus agreed upon by this committee will effectively address virtually all the major issues prior to publication of a proposed rulemaking.

○ If consensus is reached on all issues, FTA will use the consensus text as the basis of its NPRM, and the CBNRAC members will refrain from providing formal negative comments on the NPRM.

○ If the CBNRAC reaches agreement by consensus on some, but not all, issues, the CBNRAC may agree to consider those agreements as final consensus. In such a case, FTA will include the consensus-based language in its proposed regulation and decide all the outstanding issues, taking into consideration the CBNRAC discussions regarding the unresolved issues and reaching a compromise solution. The CBNRAC members would refrain from providing formal negative comments on sections of the rule based on consensus regulatory text, but would be free to provide negative comments on the provisions decided by FTA.

○ In the event that CBNRAC fails to reach consensus on any of the issues, FTA will rely on its judgment and expertise to decide all issues of the charter regulation, and CBNRAC members may comment on all components of the NPRM.

○ If FTA alters consensus-based language, it will identify such changes in the preamble to the proposed rule, and the CBNRAC members may provide formal written negative or positive comments on those changes and on other parts of the proposed rule that might be connected to that issue.

A complete description of the ground rules is contained in the docket for this rulemaking.

Finally, the CBNRAC reached consensus on the issues the committee would consider during its negotiations. The committee agreed to consider the four issues included in the Conference Committee report:

1. Are there potential limited conditions under which public transit agencies can provide community-based charter services directly to local governments and private non-profit agencies that would not otherwise be served in a cost-effective manner by private operators?

2. How can the administration and enforcement of charter bus provisions be better communicated to the public, including the use of Internet technology?

3. How can enforcement of violations of the charter bus regulations be improved?

4. How can the charter complaint and administrative appeals process be improved?

The CBNRAC also agreed to consider four additional issues:

1. A new process for determining if there are private charter bus companies willing and able to provide service that would utilize electronic notification and response within 72 hours.

2. A new exception for transportation of government employees, elected officials, and members of the transit industry to examine local transit operations, facilities, and public works.

3. Review and clarify, as necessary, the definitions of regulatory terms.

4. FTA policies relative to the enforcement of charter rules and the boundary between charter and mass transit services in specific circumstances, such as university transportation and transportation to/from special events.

## III. Overview

The negotiated rulemaking process is fundamentally different from the usual process for developing a proposed rule. Negotiation allows interested and affected parties to discuss possible approaches to various issues rather than simply being asked in a regular notice and comment rulemaking proceeding to respond to details on a proposal already developed and issued by an agency. The negotiation process involves the mutual education of the parties on the practical concerns about the impact of various regulatory approaches.

The negotiated rulemaking process for the charter service regulation resulted in a complete overhaul of the regulation. This was done in response to longstanding concerns that the existing regulation is hard to understand because it is unclear about what activities constitute ''charter service.'' In addition, members of the CBNRAC agreed that the existing exceptions to the prohibition on charter service should be clarified. Concerns were also raised about the complaint process. Some members felt that complaints were filed in a vindictive manner and without a substantive basis. Others felt that once a complaint was filed, the standard contained in the existing regulation made it nearly impossible to receive the relief requested. All members of the CBNRAC felt that the complaint and appeal process takes too long.

What follows is a description of the decisions reached on each of the issues that the CBNRAC agreed to consider during negotiations. Each issue raised sub-issues that the committee agreed were also worth considering, and those sub-issues are also discussed. If consensus was reached on an issue (or sub-issue), we explain the consensus. If consensus was not reached, we explain the relative positions of the two main groups: the public transit caucus and the private charter caucus, and then offer a proposal by FTA. We encourage interested parties to review the meeting summaries in the docket for a more complete description of the positions of the caucuses and the negotiations of the CBNRAC.

Furthermore, two major changes are worth noting at the outset. First, the CBNRAC agreed to discard the concept of ''willing and able,'' that had persisted for more than 20 years. As a result, private charter operators interested in performing requests for charter service received by recipients would now be ''registered charter providers.'' This term is appropriate because, as explained in further detail later in this document, private charter operators would register on an Internet site. This website, known as the FTA Charter Registration Website, would store the names of private charter operators interested in receiving notice from recipients. This new process would replace the old ''willing and able'' process.

Second, the existing regulation contains very limited requirements regarding complaints, hearings, and appeals. This proposal contains a more robust complaint, hearings, and appeals process. This would ensure that FTA has an appropriate mechanism for weeding out frivolous or vindictive complaints while ensuring that substantive complaints contain the necessary information to inform all parties involved. Further, while the existing regulations contain an option for a hearing, there are no procedures for a hearing. This NPRM contains procedures for a hearing if a complaint merits one.

To summarize, the proposals contained in this NPRM represent consensus language and informed decisions by FTA. The complete rewrite

of part 604 has been a long time in the making, and is necessary. It is the hope of FTA that the clarifications made in this proposal will assist public transit agencies in complying with charter service regulations and ensure that all parties understand when compliance has been achieved.

## IV. Conference Committee Report Issues

*Issue #1: Limited Exceptions for Providing Community-Based Charter Services*

Under the current regulations governing charter service, an FTA recipient is generally prohibited from providing charter service unless one of the exceptions applies. The existing exceptions are: (1) When there is no ''willing and able'' private charter operator; (2) leasing equipment; (3) rural hardship; (4) special events; (5) non-profit organizations serving individuals with disabilities; (6) non-profit social service agencies listed in Appendix A; (7) non-profit organizations serving low-income or transit-dependent persons; (8) rural non-profit organizations serving the elderly; and (9) formal agreement with all willing and able private charter operators.

The CBNRAC agreed that the revised regulation should also contain exceptions. The committee reached consensus on six exceptions: (1) Government officials; (2) qualified human service organizations; (3) leasing equipment; (4) events of regional or national significance; (5) when no registered charter provider responds to notice from a recipient; and (6) agreement with registered charter providers. We discuss each of these exceptions below. We also discuss one exception where the committee could not reach consensus, which was the ''hardship'' exception. We have added an exception that the committee did not consider, but due to past and recent events, we believe should be added; an exception for the Administrator. Finally, we discuss three sub-issues for all exceptions: Reporting requirements, fully allocated costs, and recipients with 1,000 or more buses in peak hour service.

(a) Government Officials

This is a new exception to the charter regulations and would allow recipients to provide charter service to government officials for non-transit related purposes as long as the recipient provides the service in its geographic service area, does not generate revenue (except as required by law), and records the trip. The CBNRAC also agreed that there should be an hourly annual limit for this exception, but could not reach consensus on the number of hours. The public transit caucus proposed an annual limit of 125 charter service hours. The private charter caucus proposed an annual limit of 80 charter service hours. Neither caucus explained why one limit should prevail over the other.

Since this is a new exception to the charter regulations, FTA proposes to accept the private charter caucus' annual limit of 80 hours of charter service to government officials for non-transit related purposes within the recipient's geographic service area. In accepting this proposal, however, FTA believes that extenuating circumstances may arise where additional hours may be necessary. As a result, FTA added a provision to allow for additional charter service hours under this exception, at the Administrator's discretion, in rare or unusual circumstances, if the recipient submits a written request: (1) Describing the event; (2) explaining why registered charter providers in the geographic service area cannot perform the service (e.g., equipment, time constraints, or other extenuating circumstances); (3) describing the number of charter service hours requested to perform the service; and (4) presenting evidence that the recipient has sent the request for additional hours to registered charter providers in its geographic service area. FTA would review the request and respond to the recipient. The recipient would then be responsible for emailing FTA's response to the registered charter providers in its geographic service area. As with all exceptions under the proposed regulation, the recipient would be responsible for recording the service in an electronic log.

(b) Qualified Human Service Organizations

This exception would essentially collapse three exceptions contained in the existing regulation pertaining to the elderly, individuals with disabilities, and low-income individuals into one exception for ''qualified human service organization.'' Consistent with the President's Executive Order on Human Service Transportation Coordination (February 24, 2004), the CBNRAC reached consensus on allowing recipients to provide charter service to ''persons with mobility limitations related to advanced age, persons with disabilities, and persons struggling for self-sufficiency * * *'' If an organization serving the above individuals also receives funds from one or more of the 65 Federal programs to be listed in Appendix A to the regulation, then the recipient would only need to record the charter service in order to provide it. If the organization does not receive Federal funds from the programs listed in Appendix A, but serves individuals described in this section, then the organization would need to register on FTA's Charter Registration Web site and the recipient would need to record the charter service. FTA will provide Appendix A in the final rule and will update it from time to time as new Federal programs are created to assist individuals and organizations covered by this exception or when a party sends a petition to the Administrator requesting an update to Appendix A.

(c) Leasing FTA-Funded Equipment and Drivers

The existing exception under the charter regulations allows for a recipient to lease equipment to a private charter operator if the private charter operator receives a request that exceeds its capacity, or the private charter operator does not have equipment accessible to the elderly or individuals with disabilities. The CBNRAC reached consensus on maintaining this exception with a few minor changes. First, the private charter operator would have to be registered on the FTA Charter Registration Website. Second, the private charter operator would have to own and operate a charter service business. Third, the private charter operator would have to exhaust all available vehicles from other private charter operators in the recipient's geographic service area. Fourth, the recipient would have to record the vehicles leased and retain the documentation provided by the private charter operator that demonstrates compliance with the first three requirements.

(d) Events of National or Regional Significance

This exception in the current regulation requires a petition to the Administrator personally in order to provide charter service for a special event. The only limitation is that the service can be provided ''to the extent that private charter operators are unable to provide the service.'' The CBNRAC reached consensus on retaining this exception, but with a more formal process for petitioning the Administrator. The revised exception would require recipients to first consult with private charter operators registered in the recipient's geographic service area. After consultation, the recipient may petition the Administrator only if the recipient (1) submits the petition at

least 90 days before the event; (2) describes the importance of the event, the amount of charter service needed, and how private charter operators will be utilized; and (3) files the petition in the special events docket. The Administrator would review the petition, request any additional information necessary to make a decision, and then post the decision in the special events docket. The Administrator's approval of a petition under this exception would be limited to the event described in the petition.

(e) When No Registered Charter Provider Responds to Notice From a Recipient

The existing regulation allows a recipient to provide any and all charter service to the extent that there are no private charter operators interested in providing the service. The CBNRAC reached consensus on retaining this exception, but with a modification designed to make the whole process more responsive. As noted earlier, the implementation of an FTA Charter Registration Website would allow recipients and registered charter providers to respond in real time regarding charter service requests. Under this exception, a registered charter provider would have 72 hours to respond to a request for charter service to be provided in less than 30 days and 14 days to respond to a request for charter service to be provided in more than 30 days. If a registered charter provider responds to the request, then the recipient may not provide the service, even if the registered charter provider and the customer are not able to agree upon a price. Alternatively, if no registered charter provider responds to a request, then the recipient may provide the service so long as it records the proper information in an electronic log.

(f) Agreement With Registered Charter Providers

This exception in the current regulation allows a recipient to enter into an agreement with all private charter operators in its geographic service area to allow it to provide charter service directly to a customer. The CBNRAC reached consensus on retaining this exception with certain modifications to account for the use of the Charter Registration Website instead of the annual willing and able process. Under the revised exception, the recipient would have to ascertain registered charter providers in its geographic service area from the Charter Registration Website by January 30th of each year. The recipient would have to enter into an agreement with those registered charter providers by February 15th of each year.

1. Additional Exceptions

*(i) ''Hardship''*

The CBNRAC was unable to reach consensus regarding the ''hardship'' exception that currently exists in the charter regulation. This exception is intended to allow non-urbanized (rural) areas to provide charter service if a private charter operator's provision of this service would create a hardship on the customer because the private charter operator imposes a minimum duration that is longer than the trip length or the private charter operator is located ''too far'' from the origin of the charter service.

The CBNRAC could not reach consensus on what constitutes ''too far.'' The private charter caucus proposed retaining the exception as is. The public transit caucus offered to replace ''too far'' with ''deadhead time exceeding total trip time from initial pick-up to final drop-off.''

FTA proposes to retain the hardship exception and replace ''too far'' with the public transit caucus' proposal. We believe that this proposal sufficiently clarifies what is meant by ''too far'' without opening up the exception to abuse.

*(ii) Administrator's Discretion*

FTA proposes to add a new exception to address unique situations in which it may not be practical or feasible to provide notice to registered charter providers. Specifically, FTA proposes an Administrator's discretion exception that would allow the Administrator to personally approve a recipient's use of Federally-funded assets to provide charter service for such events as funerals of local, regional, or national significance. Such an event is unanticipated and requires an immediate response. For example, the deaths of Presidents Ronald Reagan and Gerald Ford underscore the need for flexibility when using Federally-funded assets to assist in funeral preparation activities and on the day of the funeral. Thus, FTA proposes an Administrator's discretion exception to the charter regulations. A recipient would have to submit a written request, by facsimile or e-mail, that describes the event, describes the charter service requested, explains the time constraints for providing the charter service, describes the anticipated number of charter service hours needed for the event, the type of equipment requested, approximate number of vehicles needed, duration of the event, and explains how provision of the charter service is in the public's interest. Recipients granted an exception under this section would need to retain the record of approval from the Administrator for three years and include the approval in its electronic records for quarterly reporting on the Charter Registration Web site.

(2) Reporting Requirements for All Exceptions

The CBNRAC agreed that for most of the exceptions a recipient must record certain information about the charter service provided. Specifically, the committee reached consensus on reporting that would require recipients to record an organization's name, address, phone number, e-mail address, date and time of service, number of passengers, destination, trip length (miles and hours), fee collected, and vehicle number. This would be required for charter service provided under the exceptions for government officials, qualified human service organizations, hardship, and when no registered charter provider responds to a notice. For the leasing equipment exception, the recipient would have to record the registered charter provider's name, address, telephone number, number of vehicles leased, types of vehicles leased, vehicle identification numbers, and documentation presented to the recipient in support of the rule's requirements. A recipient would have to retain this information in an electronic format and for at least three years. The recipient would also identify in the record the exception that the recipient relied upon when providing charter service.

The CBNRAC could not reach consensus on whether or not the above electronic records should be posted on the Charter Registration Web site. The public transit caucus believes that posting their electronic records to a public Web site may implicate privacy concerns. That caucus instead favors the provision of records via e-mail upon request. The private charter caucus insisted that electronic records should be posted to the Web site in order to facilitate transparency. FTA agrees with the private charter caucus, but also recognizes that there may be some situations where certain information should not be posted on the Web site. Thus, FTA proposes to include a provision in the regulation that allows recipients to provide only generalized origin and destination information when safety or security is an issue.

(3) Fully Allocated Costs

The CBNRAC was unable to reach consensus on whether the concept of ''fully allocated costs'' should apply to public transit agencies that provide charter service. The public transit caucus felt as though the requirement would be a barrier to providing community-based transportation, but the private charter caucus argued that the requirement is necessary to protect private charter operators.

In the past, FTA required public transit agencies to recover fully allocated operating and capital costs and ensure that the charter service did not interfere with the intended use of the asset. FTA allowed this ''incidental use'' because it believed the charter service provided supported the mission of FTA.

We propose to eliminate the concept of ''fully allocated costs.'' The exceptions included in the proposed regulation would allow recipients to provide charter service that is in the public interest, and is consistent with the overall mission of public transit operators as mobility managers within their communities. Hence, the charter service that would be allowed under the proposed rule would be an incidental use of FTA-funded equipment and facilities, and the recovery of fully allocated costs would not be required.

Further, in the case of service provided to ''qualified human service organizations,'' the Federal Interagency Coordinating Council on Access and Mobility is currently engaged, in cooperation with the Office of Management and Budget, in developing cost allocation principals to share fairly the costs of human service transportation. To require FTA recipients to recover fully allocated costs from those qualified human service organizations, including a share of capital costs already subsidized by FTA, would impose unfair conditions on those interagency deliberations.

That being said, FTA encourages and expects recipients that provide charter services under the provisions of part 604 to develop fair charges to recover as much as possible of the marginal operating cost of the service, consistent with the public purpose of the charter service, and the ability of the requesting entity to pay. As noted earlier, under section 604.12, if a registered charter provider responds to the request for charter service, the recipient may not provide the service, even if the private charter operator's fee for the service prevents the requester from purchasing the trip. This provision protects the private charter industry from competition with transit operators that receive subsidies from FTA.

(4) 1,000 or More Buses in Peak Hour Service

The CBNRAC reached consensus on limiting the application of two exceptions—qualified human service organizations and government officials—to recipients with 1,000 or more buses in peak hour service. The public transit caucus requested this limitation, but the private charter caucus wholly supported it because of the potentially negative impact on private charter operators in urban areas where there are higher concentrations of qualified human service organizations and government officials. Both caucuses viewed the potential number of requests as problematic and felt that it was in each caucuses' interest to place a limitation on those two exceptions. FTA requests comments from qualified human service organizations and governmental officials on the practical impact of this limitation in the final regulation.

*Issue #2: How Can We Better Communicate Charter Administration and Enforcement to the Public?*

The CBNRAC reached consensus on the use of Internet technology to improve communications regarding the charter service regulations. Members of the committee acknowledged that virtually all private charter companies and public transit agencies have access to the Internet and to email. The ability to maintain lists of private charter companies, informing the public about allowable activities for public transit under the charter service regulations, and posting FTA decisions and complaints were all cited as valuable ways to use the Internet.

To effectuate the Internet-based approach, FTA would develop a Charter Registration Web site that would serve as a single point of contact for private charter operators, recipients, and members of the public to obtain information regarding charter service in their geographic area. In addition, while FTA currently posts decisions regarding charter complaints on its Web site, under the revised regulation, we propose to make better use of the Department's Docket Management System (DMS) by establishing an exemption docket, special event docket, advisory opinion docket, complaint docket, and hearing docket. These dockets would be available 24 hours a day and seven days a week. Further, DMS has listserv capabilities so that the public can receive notice each time the government places a document in the docket. We believe this level of transparency would go a long way toward informing the public as to which transit agencies do not provide charter service (exemption docket); private charter operators as to when a public transit agency requests a special event exception (special event docket); when FTA provides formal advice to private charter operators and recipients (advisory opinion docket); when a complaint has been filed against a transit agency (complaint docket); and when a complaint has been referred for a hearing (hearing docket). The CBNRAC reached consensus on this issue.

*Issue #3: How Can Enforcement of Violations of the Charter Bus Regulations Be Improved?*

The CBNRAC reached consensus on improved enforcement of charter service regulations by focusing on deterrence of risky behavior. Members of the committee noted that the seminal question regarding enforcement is: ''What is charter service?'' For the public transit caucus, it is important to protect the public transit agency's ability to provide public transportation and serve its community. This includes the ability to modify routes to address congestion or improve mobility for the elderly, disabled or low-income populations. For the private charter caucus, charter service by public transit agencies should not be ''dressed up'' to look like public transportation. The private charter caucus believed that service for special events of an irregular nature constitutes charter service and the public transit agencies should be prohibited from providing such service unless there is no private charter operator interested in performing the service.

The proposed regulation would implement a new remedial scheme, giving the decision-maker discretion to determine the type and amount of the remedy based on a number of relevant factors, including, but not limited to, the gravity of the violation, the revenue earned by providing charter service, and the operating budget of the recipient. The remedy could take the form of withholding a ''reasonable percentage'' of available Federal financial assistance, a complete bar on receiving future Federal funds, or a refund to the U.S. Treasury of revenue collected in violation of the rule.

Besides flexibility in the assessment of a remedy, the CBNRAC reached consensus on several other ways to improve the enforcement process, specifically (1) issuing advisory opinions and (2) conducting

investigations. The CBNRAC could not reach consensus on whether the following measures should be included in a new and improved charter service enforcement regime: (1) Cease and desist orders, (2) using neutral decision-makers, and (3) considering a pattern of violations as an aggravating factor to any remedy assessed. We discuss each of these issues below.

(a) Advisory Opinions

CBNRAC reached consensus that the new rule should incorporate a provision enabling public transit agencies and registered charter providers to obtain advisory opinions on a case-by-case basis regarding whether or not a particular type of transportation would constitute charter service. These advisory opinions would serve as a mechanism for expedited review by FTA before the recipient performs the service. Through this mechanism, recipients and registered charter providers alike would receive formal advice about compliance with charter service requirements. An advisory opinion would represent the formal position of FTA on a matter and may be used in administrative or court proceedings. The advisory opinion would be limited, however, to the factual circumstances described in the request and would not be binding upon a decision-maker adjudicating a charter complaint.

Advisory opinions represent a more formalized ''letter of determination,'' which is currently issued when private charter operators or recipients seek regulatory advice from FTA before providing charter service. This more formal process would provide transparency and consistency regarding FTA's advice. The CBNRAC reached consensus on this issue.

(b) Investigations

Another way to improve enforcement is to ensure that a complaint filed has a substantive basis. Members of the CBNRAC raised concerns regarding the filing of incomplete complaints or frivolous complaints. Thus, the proposed regulation includes a new provision allowing FTA ninety days to conduct an investigation regarding a complaint. This provision is consistent with the statutory requirement: ''On receiving a complaint about a violation of an agreement, the Secretary of Transportation shall investigate and decide whether a violation has occurred.'' 49 U.S.C. 5323(d) (2). Thus, the CBNRAC reached consensus on revised regulatory language that would allow FTA to conduct an investigation after a registered charter provider files a complaint. The proposed revision would also allow FTA to investigate on its own initiative. After an investigation is complete, FTA may dismiss the complaint, issue an initial decision based on the pleadings to date, or refer the matter to a neutral decision-maker for a hearing.

(c) Cease and Desist Orders

The CBNRAC was unable to reach consensus on whether advisory opinions should also offer an opportunity to request a cease and desist order. The public transit caucus worried that such an order could be issued wrongfully, thus preventing public transit agencies from providing public transportation. The private charter caucus encouraged the inclusion of a cease and desist provision as a way to prevent financial harm to private charter operators without going through a full-blown complaint and hearing process.

This NPRM does not include a cease and desist provision. While FTA believes that a properly worded cease and desist provision would protect against ''wrongfully'' issued cease and desist orders, we are reluctant to implement a cease and desist process because FTA does not have the human resources to administer a cease and desist provision. FTA is concerned that interested parties would inundate the agency with cease and desist requests. Furthermore, we believe that revisions to the charter service definition, coupled with clear exceptions and strong remedies for violations of the regulation provide sufficient protection of a private charter operator's financial interest.

(d) Neutral Decision-Maker

During the CBNRAC negotiations, members of the committee expressed the deeply held belief that FTA decisions regarding charter service complaints are inconsistent. Both caucuses described experiences of receiving inconsistent decisions from FTA regarding whether a particular service is prohibited charter service. The private charter caucus also stated that FTA was biased in favor of public transit agencies by advising agencies on how to tailor the charter service so as to look like public transportation. As a consequence, members of the committee agreed that decision-making regarding charter service complaints should be removed from the regional offices and sent to FTA headquarters. The caucuses differed, however, on who should render a determination once a complaint is sent to FTA headquarters. The public transit caucus favored having FTA headquarters make the initial decision regarding the complaint. The private charter caucus contended that FTA headquarters is biased in favor of public transit agencies regarding charter service complaints. Thus, the private charter caucus favors the use of an Administrative Law Judge (ALJ) to make the initial decision regarding a complaint.

After careful consideration of the above positions, and considering FTA's limited resources, we propose to include a new provision in the proposed regulation that would allow a headquarters office to make an initial decision regarding a charter service complaint or to refer the matter to a neutral decision-maker (Presiding Official) for a hearing. The Presiding Official might be an Arbitrator or other hearing officer and the parties to the proceeding would be the public transit agency and the complaining party. The Presiding Official would then issue a recommended decision to an appropriate headquarters office that would reject, ratify, or adopt with modifications the recommended decision. Any initial decision may be appealed to the Administrator. This proposed process allows FTA to make a determination that a hearing is unnecessary and issue an immediate decision based on the pleadings to date or to refer the matter for a hearing. We believe that this approach is less resource intensive but still provides a neutral decision-maker for more serious cases that require a hearing.

(e) Pattern of Violations

As part of the revised rule's more rigorous enforcement scheme, the proposed regulation contains language that would increase any remedy ordered if the decision-maker determines that there is a ''pattern of violations.'' The CBNRAC could not reach consensus on this issue. The private charter caucus believed that more than one violation of the charter service regulations should incur a severe penalty. The public transit caucus believed that more than one violation of the same requirement should be treated more severely. The public transit caucus argued that more than one violation of different charter service requirements should not constitute a pattern of violations, because the public transit agency is unlikely to know what constitutes a violation of the charter service regulations until FTA informs the public transit agency of the violation.

As will be discussed later in the definitions section of this NPRM, we propose to define a pattern of violations as: ''more than one finding of non-

compliance of this Part by FTA beginning with the most recent finding of noncompliance and looking back over a period of 72 months.'' We intend to apply this definition in the ''remedies'' section of the rule. Under that section, if the decision-maker determines there is a pattern of violations, then the decision-maker ''shall bar a recipient from receiving Federal transit assistance in an amount * * * considered appropriate.'' This means that a public transit agency violating the charter service regulation for the first time would be treated differently, and less severely, than a public transit agency that has violated the charter service regulations more than once over the past six years. Further, we determined that looking at a six year period would be sufficient to determine whether the public transit agency has a history of non-compliance with the charter service regulations. FTA believes that the new provision on ''pattern of violations'' would deter conduct that leads to complaints, would reduce the number of complaints, and would promote consultation with FTA.

*Issue #4: How Can the Charter Complaint and Administrative Appeals Process Be Improved?*

All CBNRAC members agreed that the complaint process should be designed so as to produce consistent decisions on charter bus complaints. The perceived inconsistency in past charter decisions by FTA was attributed in part to region-based adjudication under the current rule. The committee expressed concern over the diverse approaches for addressing charter violations taken by different regions. To this end, the committee recommended that regional offices should no longer handle charter complaints. Instead, complaining parties would bypass the regional offices and file their complaints directly with the FTA Office of the Chief Counsel. FTA headquarters would receive complaints, post complaints in a complaint docket, and investigate alleged violations.

Furthermore, the committee reached consensus on a more detailed complaint process. The existing rule only requires the filing of a complaint that ''is not without obvious merit and that * * * states grounds on which relief may be granted.'' This generalized pleading process has led to frivolous filings or complaints that do not contain enough information to determine the violation of the charter service regulations. The revised regulations would require a complainant to identify the specific provisions of the charter service regulation allegedly violated, provide a complete and concise statement of the facts relied upon in filing the complaint, and submit all documents offered in support of the complaint.

Additionally, the CBNRAC reached consensus on new filing and service provisions. In the past, there were instances where the complainant failed to notify the public transit agency. Instead, the FTA regional office sent the complaint. The revised regulation would require a complainant to file the complaint with the public transit agency and send proof of service to FTA headquarters. Furthermore, the committee agreed that associations may file a complaint as a duly authorized representative of a registered charter provider. The private charter caucus advocated for this position so that registered charter providers who work with public transit agencies would not have to file a complaint directly. Even so, the association would have to identify on whose behalf the complaint is filed.

Moreover, we would appreciate comments on how to address State involvement in the complaint process. For instance, in the case of a complaint against a rural transit operator funded as a subrecipient of a State under section 5311, we propose that the private charter provider should submit a complaint with the State Department of Transportation (FTA's direct recipient) first. If the State Department of Transportation cannot resolve the complaint, then the private charter operator would proceed under subpart F. This option was not presented to the CBNRAC and we have not revised regulatory text to reflect this proposal. We would, however, appreciate comment on the topic.

In addition to a more detailed complaint process, the CBNRAC agreed that the appeals process should have more flexibility, the conciliation period should be eliminated, parties should be able to complain about a private charter operator or qualifed human service organization's registration on the FTA Charter Registration Web site, and it should be easier for FTA to dismiss incomplete or non-substantive complaints. Each of these points is discussed below.

(a) Appeals

The CBNRAC reached consensus on an improved appeals process that gives the Administrator discretion to take an appeal or modify an initial decision. Previously, the Administrator could only consider an appeal if ''the appellant presents evidence that there are new matters of fact or points of law that were not available or not known during the investigation of the complaint.'' 49 CFR 604.20(b). Members of the committee viewed that provision as too limiting, and advocated for broader discretion. Thus, the new provision would allow an appeal so long as the appellant meets the relevant deadlines. Further, even if the appellant has not filed an appeal, the Administrator, on his or her own motion, may review an initial decision. As noted earlier, the initial decision would be made either by a headquarters office or by an Arbitrator after a hearing and ratification by a headquarters office. Additionally, the new regulation would set out specific timeframes for FTA to make decisions regarding the complaint and appeal. Specifically, the initial decision would have to be issued 110 days after the investigation is complete. A decision on an appeal would have to be made within 30 days.

(b) Conciliation Period

The committee also determined that the mandatory conciliation period in the existing rule was almost never used and had no effect other than delaying the adjudicatory process. The committee recommended that FTA remove this requirement from the new rule and instead include a statement that encourages the parties to resolve their dispute informally before filing a complaint. Thus, we proposed not to include a conciliation period in the revised regulation.

(c) Removal From Charter Registration Web Site

The CBNRAC reached consensus on providing a new provision that allows registered charter providers or recipients to file a complaint challenging the registration of a private charter operator or qualified human service organization on the Charter Registration Web site. Members of the committee approved of this provision because it would allow the removal of private charter operators that act vindictively when responding to requests for charter service. In other words, a private charter operator that responds affirmatively to a notice from a recipient requesting charter service but then does not contact the customer or negotiates in bad faith with the customer could be removed from the Web site and not receive future requests for charter services. The proposed regulation sets out specific reasons why FTA could remove a registered charter provider from the registration list. In addition, we plan to develop an Appendix B that would set out examples of each basis for removal.

On the other hand, a registered charter provider could file a complaint to remove a qualified human service organization from the registration list. FTA may remove a qualified human service organization for the same reasons a registered charter provider may be removed from the registration list (e.g., bad faith and lack of documentation).

Thus, under this new process, a complaint would be filed electronically in the complaint docket and a response would be required in seven days. FTA would then consider the complaint and response and issue a decision in ten business days. FTA's decision would be posted in the complaint docket and would identify the reasons for removing or allowing the private charter operator or qualified human service organization on FTA's Charter Registration Web site. If removal is ordered, the decision would identify the length of time for removal and when the party may reapply for registration.

(d) Dismissals

Furthermore, to ensure the integrity of the complaints filed, the CBNRAC reached consensus on new provisions that would allow FTA to dismiss a complaint, without prejudice, if it is incomplete. FTA may also dismiss a complaint, with prejudice, if the complaint, on its face, is outside the jurisdiction of FTA, fails to state a claim that warrants further investigation, or if the complainant lacks standing to file the complaint.

## V. Additional Issues Considered by the CBNRAC

*Issue #5: A New Process for Determining If There Are Private Charter Bus Companies Willing and Able To Provide Service That Would Utilize Electronic Notification and Response*

The CBNRAC discussed this issue because the private charter caucus and public transit caucus were close to an agreement on this issue during previous negotiations before the formation of the CBNRAC. Essentially, the committee viewed the current ''willing and able'' process as protection for private charter operators from unsuccessful negotiations with customers who might expect lower prices from public transit agencies. The current process also allows public transit agencies to provide charter service when there is no private charter operator interested in performing the service. Even so, the committee recognized that the existing willing and able process is outdated and agreed to eliminate it in favor of a web-based registration process.

The Charter Registration Web site would serve as a database of private charter operators who are interested in receiving notice from recipients regarding requests for charter service. In order to register, private charter operators would have to answer several questions about their business and the geographic areas they serve. Recipients, upon receiving a request for charter service that a recipient is interested in providing, would be required to send an email to registered charter providers listed on FTA's Charter Registration Web site in the recipient's geographic service area. The notification would have to be sent by close of business on the day the recipient receives the request, unless the recipient received the request after 2 p.m., in which case the recipient would have to send the notice by the close of business the next business day. The recipient may then provide charter service if no registered charter provider responds to the notice within 72 hours for charter service requested to be provided in less than 30 days; or within 14 calendar days for charter service requested to be provided in 30 days or more. The recipient would have to retain an electronic copy of the notice and the list of registered charter providers notified of the requested charter service for a period of at least three years from the date the notice was sent. The recipient would also record certain information about the charter service for purposes of quarterly reporting. Members of the CBNRAC expressed approval of this real-time process over the existing annual notification process.

The CBNRAC could not reach consensus on whether a private charter operator should be required to answer whether it would provide free or reduced rate services to qualified human service organizations. The public transit caucus argued in favor of such a requirement while the private charter caucus argued against a requirement and advocated instead that it be optional.

The proposed regulation includes language that would make it optional for a private charter operator to indicate whether they would provide free or reduced rate charter services to qualified human service organizations. We believe that private charter operators wish to support their communities in the same way that many recipients support their communities and that they would likely take advantage of this option because qualified human service organizations can conduct a search on the Charter Registration Web site to look only for those private charter operators with free or reduced rates. We do not believe, however, that private charter operators should be required to provide such information.

(a) Registration of Qualified Human Service Organizations

In addition to registering private charter operators, the Charter Registration Web site would also serve as a database for qualified human service organizations that do not receive funding from the Federal programs listed in Appendix A to the regulation. In order to register, qualified human service organizations would have to answer several questions about their organization, its funding, and its mission.

After registering, these qualified human service organizations would be eligible to receive free or reduced rate charter services from either recipients or registered charter providers. The committee reached consensus on this issue.

FTA requests comment from qualified human service organizations, not receiving funding from the Federal programs listed in Appendix A, on the practical impact of these registration requirements.

*Issue #6: A New Exception for Transportation of Government Employees, Elected Officials, and Members of the Transit Industry To Examine Local Transit Operations, Facilities, and Public Works*

The CBNRAC reached consensus on a new applicability provision for the charter service regulations. Under the new provision, the charter service regulations should not apply to a recipient transporting its own employees, other transit system employees, management officials, contractors and bidders, government officials and their contractors and official guests to or from transit facilities or projects within their geographic service area for the purpose of conducting oversight functions such as inspection, evaluation, or review.

During the discussions on this issue, members of the CBNRAC noted that movement of transit employees or officials for transit purposes is simply not charter service. Further, as discussed in greater detail in the next section, under the new definition of charter, movement of transit employees from one work station to another is also not charter service. The CBNRAC also reached consensus on the following applicability provisions:

(a) The charter service regulations would not apply to a recipient that transports its employees, or other transit system employees or officials for

emergency preparedness planning and operations.

(b) The charter service regulations would not apply to recipients of 49 U.S.C. 5310, 5316, or 5317 funds, when used for program purposes.

(c) The charter service regulations would not apply in the case of local, regional, or national emergencies lasting fewer than three days. Otherwise, the recipient would have to follow the provisions of 49 CFR part 601 subpart D.

(d) The charter service regulations would not apply to a non-urbanized area transporting its employees outside of its geographic service area for training purposes.

The CBNRAC could not reach consensus on whether the charter service regulations apply to private charter operators receiving funds, directly or indirectly, from programs under 49 U.S.C. 5307, 5309, 5310, 5311, 5316, 5317 or section 3038 of the Transportation Equity Act for the 21st Century. The private charter caucus requested this provision because it believes that the receipt of Federal funds should not hinder the private charter operator's ability to conduct its business. The public transit caucus asserted that private charter operators receiving Federal funds should be subject to the same limitations as public transit agencies.

We propose to include this provision because the receipt of funds from the Federal government should not interfere with a private charter operator's business. This regulation has its genesis in the protection of the private charter operators from unfair competition by public transit agencies. To subject private charter operators to the charter service regulations undermines the very purpose of these regulations.

*Issue #7: Review and Clarify, as Necessary the Definitions of Regulatory Terms*

One of the main points of contention for the CBNRAC was the definition of ''charter service'' and ''pattern of violations.'' For all other definitions, the CBNRAC was able to reach consensus. Additionally, since the conclusion of the negotiations, we decided that definitions of ''qualified human service organization'' and ''charter service hours'' are necessary. Thus, what follows is a discussion of the negotiations regarding the definitions of charter service and pattern of violations. We also offer our proposed definitions of qualified human service organization, charter service hours, and special transportation.

(a) Definition of Charter Service

CBNRAC was unable to come to an agreement on the definition of the term ''charter service.'' The controversy centered on a particular category of transportation service provided on an irregular basis for occasional local events such as golf tournaments, festivals, state fairs, July 4th celebrations, flower shows, home shows, and sporting events. The public transit caucus considers open-door bus service to these types of events to be public transportation that serves the community at large (by providing traffic mitigation and other public benefits) even though the transit agency may need to create new or modified routes on a temporary basis for the duration of the event in order to provide the service. The private charter caucus believes that such services constitute ''charter service'' because a third party event sponsor is usually involved through some type of contractual arrangement; a new, temporary route has to be created to transport people to and from the event (as opposed to published, regular transit routes); and because the service is not continuous, and lasts only for the duration of the event. Despite lengthy discussions and an exchange of various proposals between the two sides, these differences could not be resolved by the committee. We recommend that interested parties review the docket for the exact proposals offered by each caucus.

In response to the discussions held by the CBNRAC, we propose a definition of charter service that recognizes concerns raised by each caucus and provides examples of what would be considered charter service. In providing this definition of charter service, we note that the term ''buses'' includes rubber-tire replica trolleys.

First, the caucuses were able to agree, although they did not reach consensus, on the proposition that charter service has three components: The transportation of a group of persons pursuant to a single contract with a third party; a fixed charge; and an itinerary determined by someone other than the public transit agency. The CBNRAC agreed that these three elements would have to be present in order for a particular service to be considered charter service.

Second, members of the CBNRAC felt it was important to provide examples of what is and is not charter service. Thus, we propose a definition that includes three examples of charter service: (1) Use of buses or vans to transport school students, school personnel or school equipment; (2) shuttle service to events that occur on an irregular basis or for limited duration; or (3) shuttle services limited to a group of individuals pursuant to a contract with an institution, university, corporation or government.

We also include in the definition examples of what is not charter service. Specifically, we propose that the following do not constitute charter service: (1) Adding equipment or days to an existing route; (2) extending service hours on an existing route; (3) demand-responsive service that is part of coordinated public transit human service transportation; and (4) new or modified service that is open to the public, where the recipient establishes and controls the route and the service continues from year to year.

In an effort to provide further clarification of what service would be considered charter service or public transportation, FTA will publish an Appendix C with the final rule that contains more examples and frequently asked questions. We would appreciate comments with questions that should be included in Appendix C.

(b) Definition of Pattern of Violations

The CBNRAC did not reach agreement on the definition of ''pattern of violations.'' Some participants advocated that the term should mean ''more than one instance of noncompliance with charter service regulations.'' Under this interpretation, FTA could find in a single decision that a transit agency engaged in a pattern of charter service violations. A pattern could be established, for instance, if the public transit agency's one-time provision of charter service violated several requirements of the charter service rule.

Others sought a more limited definition, whereby a recipient commits a pattern of violations of the charter service regulations only if FTA makes a series of findings of successive charter service violations over a period of time. Still others advocated a definition that recognizes a pattern only if the same regulation is violated more than once over a period of time.

We propose to adopt a definition of pattern of violations that looks at violations over a period of time. The violation need not be a violation of the same regulation, although it could be, in order for FTA to find a pattern of violations. Further, we propose to look at the recipient's six-year history to determine whether or not it has engaged in a pattern of violations. Thus, a violation in the year 2006 means that FTA could look back to the year 2000 to determine whether other violations

exist, which would constitute a pattern of violations. Violations found by FTA in 1999 could not be used to find a pattern of violations. This definition strikes a balance between the need to penalize recipients that routinely violate the charter service requirements and the need to place a time limit on how far back FTA may look for other violations. This definition, as with all provisions of this rulemaking, does not take effect until FTA issues a final rule.

(c) Definition of Qualified Human Service Organization

After the conclusion of negotiations, and as we began to make decisions about the outstanding issues, it became clear that we needed to include a definition of ''qualified human service organization'' in the proposed regulation. We believe this definition is necessary to elaborate on the exception for qualified human service organizations contained in the regulation with the Executive Order on Human Service Transportation Coordination signed by the President on February 24, 2004. Thus, we propose to define ''qualified human service organization'' as an organization that serves persons who qualify for human service or transportation-related programs or services due to disability, income, or advanced age.

(d) Definition of Charter Service Hours

We also did not present a definition of ''charter service hours'' to the CBNRAC. While the committee reached consensus that charter service hours is the appropriate measurement for the annual limit contained in the ''government officials'' exception, FTA did not provide a definition of charter service hours for review by the committee. Thus, we now propose to define charter service hours as the total hours operated by buses or vans while in charter service, including the hours operated while carrying passengers for hire and associated deadhead hours.

(e) Definition of Special Transportation

The CBNRAC did not discuss the definition of special transportation during its deliberations, but we believe the term should be defined to avoid confusion in the future. The statutory definition of ''public transportation'' includes a reference to ''special transportation.'' There is no definition of ''special transportation'' in statute or in the charter service regulations. Legislative history, however, indicates that the term includes service exclusively for the elderly and persons with disabilities, and service for workers who live in the innercity but commute to a factory in the suburbs. See, H.R. Rep. No. 1785, 90th Cong., 2d Sess., reprinted in 1968 U.S. Code Cong. Ad. & News 2941. In order to provide clarity, we believe it would be helpful to include a definition of ''special transportation'' in the proposed charter service regulation. Thus, we propose to define ''special transportation'' as demand response or paratransit service that is regular and continuous and is a type of ''public transportation.''

*Issue #8: FTA Policies Relative to the Enforcement of Charter Rules and the Boundary Between Charter and Public Transit Services in Specific Circumstances, Such as University Transportation and Transportation to/from Special Events*

The committee reached consensus to include an appendix to the final rule that would provide specific examples of situations that do or do not qualify as charter service. In close cases, the parties affected by the rule could refer to these illustrative situations for guidance in making decisions about whether or not requested service would constitute charter or public transportation under the charter service regulation.

CBNRAC members reached consensus to include in the proposed rule a limited exception to allow transit operators to provide transportation to events of regional or national significance on a case-by-case basis. In order to take advantage of this exception, a recipient would petition the Administrator after first consulting with registered charter providers in the recipient's geographic area to determine whether registered charter providers are capable of performing the service. To be eligible for the exception, the recipient would also have to satisfy a number of conditions set out in the rule. The Administrator would have full discretion to grant or deny the request.

## VI. Other Revisions to the Charter Service Regulations

The CBNRAC also reached consensus on the revision to the general purpose statement and the charter service agreement. The committee was unable to reach consensus on whether the regulation should contain an exemption provision.

The general purpose statement for the charter service regulation simply states that the purpose of the regulation is to protect private charter operators from unauthorized competition with recipients of Federal financial assistance. There was no major discussion or disagreement on this provision, and, therefore, we propose the language developed by the CBNRAC.

The charter service agreement has not been updated for over twenty years. This regulation updates the charter service agreement, which is included in the Grant Agreement or Cooperative Agreement entered into by the recipient of Federal funds. The CBNRAC reached consensus that the charter service agreement should incorporate by reference the terms of the charter service regulations, and, therefore, we propose to include those provisions.

Finally, the CBNRAC was unable to agree to the terms of an exemption provision. An exemption provision would allow a recipient to make an affirmative declaration that it would not provide charter service, under any conditions, in or out of its geographic service area. This provision was developed to address concerns by the committee that recipients that do not wish to provide charter service should be readily identifiable by the public, other recipients, and private charter operators. The private charter caucus supported such a provision because such an exemption would assist private charter operators in determining when a recipient is in violation of the charter service regulations. The public transit caucus did not object to the specific terms of the provision, but believed that no public transit agency would utilize an exemption provision.

We propose to include an exemption provision. The process would be for the recipient to provide its declaration by the third week of September each year. The recipient would file this declaration in an exemption docket. Thus, a member of the public could easily determine which recipients have declared that they would not provide charter service. If after three years there are no recipients that use the exemption provision, FTA proposes to rescind that portion of the rule.

## Distribution Tables

For ease of reference, we provide a distribution table to indicate proposed changes in section numbering and titles.

Section Title and Number:

| Old section | | New section | |
|---|---|---|---|
| (Subpart A) | | (Subpart A) | |
| Purpose | § 604.1 | Purpose | § 604.1. |
| Applicability | § 604.3 | Applicability | § 604.2. |
| Definitions | § 604.5 | Definitions | § 604.3. |
| Charter Agreement | § 604.7 | Charter Agreement | § 604.5. |
| Charter Service | § 604.9 | Exceptions | (Subpart B). |
| | § 604.9(a) | | § 604.12(b). |
| | § 604.9(b)(1) | | removed. |
| | § 604.9(b)(2) | | § 604.10. |
| | § 604.9(b)(3) | | § 604.9. |
| | § 604.9(b)(4) | | § 604.11. |
| | § 604.9(b)(5) | | § 604.8. |
| | § 604.9(b)(6) | | § 604.8. |
| | § 604.9(b)(7) | | § 604.8. |
| | § 604.9(b)(8) | | § 604.13. |
| Procedures for determining if there are any willing and able private charter operators. | § 604.11 | | (Subpart C). |
| | | Registration of private charter operators. | § 604.16. |
| Reviewing evidence submitted by private charter operators. | § 604.13 | | removed. |
| Filing a complaint | (Subpart B) | Complaints | (Subpart F). |
| | § 604.15(a) | | § 604.27(a). |
| | § 604.15(b) | | removed. |
| | § 604.15(c) | | § 604.27(b). |
| | § 604.15(d) | | § 604.27(c). |
| | § 604.15(e) | | § 604.34 or 46. |
| | § 604.15(f) | | § 604.32 or 33. |
| | § 604.15(g) | | (Subpart I). |
| | | | § 604.36. |
| | § 604.15(h) | | § 604.37. |
| | § 604.15(i) | | § 604.45. |
| Remedies | § 604.17 | Remedies | § 604.47. |
| | | Appeal to Administrator and final agency orders. | |
| | | | (Subpart J). |
| Appeals | § 604.19(a) | | § 604.48(a). |
| | § 604.19(b) | | § 604.48(b). |
| | § 604.19(c) | | § 604.48(c). |
| | § 604.19(d) | | § 604.48(a). |
| | § 604.19(e) | | § 604.48(b). |
| Judicial Review | § 604.21 | | (Subpart K). |
| | | | § 604.50. |

*Rulemaking Analyses and Notices*

All comments received on or before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, we will continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period.

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

FTA has determined preliminarily that this rulemaking is not a significant regulatory action within the meaning of Executive Order 12866, and is not significant under Department of Transportation regulatory policies and procedures. This NPRM contains revisions that are clarifying in nature. Where possible, we have adopted provisions to lessen the burden on public transit agencies while ensuring that those entities do not engage in unfair competition with private charter operators.

FTA has not conducted a cost analysis for this rulemaking because the changes proposed do not impose any cost on the industry. Since this rulemaking is designed to protect private charter operators from unfair competition by public transit agencies, the changes should increase opportunities for private charter operators when the requested service is not subject to one of the community-based exceptions.

FTA welcomes comments on whether there are economic impacts from this proposed regulation. Comments regarding specific burdens, impacts, and costs would be most welcome and would aid us in more fully appreciating whether there are cost impacts for this proposed rule.

**Regulatory Flexibility Act**

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (RFA) requires the agency to ''prepare and make available for public comment an initial regulatory flexibility analysis,'' which will ''describe the impact of the proposed rule on small entities.'' (5 U.S.C. 603(a)). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

The nature of this rulemaking is to prevent unfair competition by public transit agencies with private charter operators. Thus, any economic impact on small entities will be a positive one. FTA hereby certifies that the proposals for the charter service regulation contained in this NPRM, if adopted, would not have a significant economic impact on a substantial number of small entities. FTA invites comment from members of the public who believe there will be a significant impact on small entities.

**Unfunded Mandates Reform Act of 1995**

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This proposed rule will not result in the expenditure of non-Federal funds by State, local, and Tribal governments, in the aggregate, or by the private sector, of $120.7 million in any one year (2 U.S.C. 1532).

**Executive Order 13132 (Federalism)**

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and FTA has determined that this proposed action would not have sufficient federalism implications to warrant the preparation of a Federalism assessment. FTA has also determined that this proposed action would not preempt any State law or regulation or affect the States' ability to discharge traditional State governmental functions. Comment is solicited specifically on the Federalism implications of this proposal.

**Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations.

FTA has an existing approved information collection (OMB Control Number 2132–0543) that expires on December 31, 2007. FTA has determined that revisions in this proposal will require an update to the information collection request. However, FTA believes that any increase in burden hours per submission is more than offset by decreases in the frequency of collection for these information requirements and the use of electronic technology.

**Executive Order 13175 (Tribal Consultation)**

FTA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believe that the proposed action would not have substantial direct effects on one or more Indian Tribes; would not impose substantial direct compliance costs on Indian Tribal governments; and would not preempt Tribal laws. Therefore, a Tribal summary impact statement is not required.

**Executive Order 13211 (Energy Effects)**

We have analyzed this action under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' dated May 18, 2001. We have determined that it is not a significant energy action under that order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

**Regulation Identification Number**

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

**List of Subjects in 49 CFR Part 604**

Charter Service.

In consideration of the foregoing, FTA proposes to revise title 49, Code of Federal Regulations, part 604 as set forth below:

**Title 49—Transportation**

1. Revise Part 604 to read as follows:

## PART 604—CHARTER SERVICE

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### Subpart K—Judicial Review

604.50 Judicial review.

**Authority:** 49 U.S.C. 5323(d); 49 CFR 1.51

## Subpart A—General Provisions

### § 604.1 Purpose.

(a) The purpose of this Part is to implement 49 U.S.C. 5323(d), which protects private charter operators from unauthorized competition from recipients of Federal financial assistance under the Federal Transit Laws.

(b) This subpart specifies which entities shall comply with the charter service regulations; defines terms used in this Part; explains procedures for an exemption from this Part; and sets out the contents of a charter service agreement.

### § 604.2 Applicability.

(a) The requirements of this Part shall apply to recipients of Federal financial assistance under the Federal Transit Laws, except as otherwise provided in paragraphs (b) through (g) of this section.

(b) The requirements of this Part shall not apply to a recipient transporting their employees, other transit system employees, transit management officials, transit contractors and bidders, government officials and their contractors and official guests, to or from transit facilities or projects within their geographic service area or proposed geographic service area for the purpose conducting oversight functions such as inspection, evaluation, or review.

(c) The requirements of this Part shall not apply to private charter operators that receive, directly or indirectly, Federal financial assistance under any of the following programs: 49 U.S.C. 5307, 49 U.S.C. 5309, 49 U.S.C. 5310, 49 U.S.C. 5311, 49 U.S.C. 5316, 49 U.S.C. 5317 or section 3038 of the Transportation Equity Act for the 21st Century, as amended.

(d) The requirements of this Part shall not apply to a recipient transporting their employees, other transit system employees, transit management officials, transit contractors and bidders, government officials and their contractors and official guests, for emergency preparedness planning and operations.

(e) The requirements of this Part shall not apply to a recipient that uses Federal financial assistance from FTA, for program purposes only, under 49 U.S.C. 5310, 49 U.S.C. 5316, or 49 U.S.C. 5317.

(f) The requirements of this Part shall not apply to a recipient in the event of a national, regional, or local emergency lasting fewer than three business days. If an emergency exists that the recipient expects to last longer than three business days, the recipient shall follow the procedures set out in subpart D of 49 CFR part 601.

(g) The requirements of this Part shall not apply to a recipient in a non-urbanized area transporting their employees, other transit system employees, transit management officials, transit contractors and bidders to or from transit training outside its geographic service area.

### § 604.3 Exemption.

(a) Recipients, who do not engage or intend to engage in charter services using equipment or facilities funded under the Federal Transit Laws, may file an affidavit certifying that they will not provide charter services covered by this Part.

(b) If a recipient files an affidavit described in this section, the recipient shall not provide charter service under any of the exceptions contained in subpart B and shall be exempt from the notification requirements of subpart C.

(c) The affidavit described in this section shall state:

I, (insert name and title), hereby swear or affirm that (insert name of applicant or recipient) and all contractors or recipients through (insert name of applicant or recipient) will not provide charter service that uses equipment or facilities funded under the Federal Transit Laws.

I, (insert name and title), also understand that by swearing out this affidavit, (insert name of applicant or recipient) and all contractors or recipients through (insert name of applicant or recipient) could be subject to the penalties contained in 18 U.S.C. 1001 for submitting false information to the government and may subject (insert name of applicant or recipient) and all contractors or recipients through (name of applicant or recipient) to a withholding of Federal financial assistance as described in 49 CFR part 604 subpart I.

(d) The affidavit described in paragraph (c) of this section shall be notarized and an original copy sent to: Office of the Chief Counsel, TCC–20, Room 9316, Washington, DC 20590. In addition, the above affidavit shall be submitted electronically to *http://dms.dot.gov* and placed in the Charter Service Exemption Docket number xxxxx.

(e) An affidavit described in this section shall be sent to FTA by the third week of September each year.

(f) A recipient may revoke an affidavit filed under this part by sending a notice to the address and docket identified in paragraph (d) of this section indicating they revoke the affidavit and agree to comply with charter service requirements of this Part.

### § 604.4 Definitions.

All terms defined in 49 U.S.C. 5301 *et seq.* are used in their statutory meaning in this Part. Other terms used in this Part are defined as follows:

(a) The term ''Federal Transit Laws'' means 49 U.S.C. 5301 *et seq.*, and includes 23 U.S.C. 103(e)(4), 142(a), and 142(c), when used to provide assistance to public transit agencies for purchasing buses and vans.

(b) The term ''Administrator'' means the Administrator of the Federal Transit Administration or their designee.

(c) The term ''charter service'' means providing transportation service using buses or vans to a group of riders pursuant to a single contract with a third party, for a fixed charge, and according to an itinerary determined by someone other than the recipient.

(1) The term charter service includes, but is not limited to, the following when the conditions in paragraph (c) of this section are met:

(i) The use of buses or vans for the exclusive transportation of school students (*e.g.*, elementary, secondary, university, or trade), school personnel, or school equipment;

(ii) Shuttle service to events such as festivals, sporting events, conventions, and similar functions that occur on an irregular basis or for a limited duration; or

(iii) Shuttle services limited to a specific group of individuals, provided under an agreement with an institution, such as a university, corporation, or government.

(2) The term charter service does not include the following:

(i) Addition of equipment or days to an existing route;

(ii) Extending service hours for an existing route;

(iii) Demand responsive service that is part of coordinated public transit human service transportation;

(iv) New or modified service that is open to the public, where the recipient establishes and controls the route, and the service continues from year to year; or

(v) The transportation of transit employees from one work location to another work location.

(d) The term ''charter service hours'' means total hours operated by buses or vans while in charter service including (1) hours operated while carrying passengers for hire, plus (2) associated deadhead hours.

(e) The term ''Chief Counsel'' means the Office of the Chief Counsel within the Federal Transit Administration.

(f) The term ''days'' means calendar days. The last day of a time period is included in the computation of time

unless the last day is a Saturday, Sunday, or legal holiday, in which case, the time period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(g) The term ''FTA'' means the Federal Transit Administration.

(h) The term ''interested party'' means an individual, partnership, corporation, association, or other organization that has a financial interest that is affected by the actions of a recipient providing charter service under the Federal Transit Laws. This term includes states, counties, cities, and their subdivisions, and tribal nations.

(i) The term ''registration list'' means the current list of registered charter providers and qualified human service organizations maintained on FTA's charter registration website.

(j) The term ''geographic service area'' means the entire area in which a recipient is authorized to provide public transportation service under appropriate local, state, and Federal law.

(k) The term ''pattern of violations'' means more than one finding of non-compliance with this Part by FTA beginning with the most recent finding of non-compliance and looking back over a period of 72 months.

(l) The term ''public transportation'' has the meaning set forth in 49 U.S.C. 5302(a)(10).

(m) The term ''qualified human service organization'' means an organization that serves persons who qualify for human service or transportation-related programs or services due to disability, income, or advanced age. This term is used consistent with the President's Executive Order on Human Service Transportation Coordination (February 24, 2004).

(n) The term ''registered charter provider'' means a private charter operator that wants to receive notice of charter service requests directed to recipients and has registered on FTA's charter registration website.

(o) The term ''recipient'' means an agency or entity that receives Federal financial assistance, either directly or indirectly, under the Federal Transit Laws. This term does not include third-party contractors.

(p) The term ''special transportation'' means demand response or paratransit service that is regular and continuous and is a type of ''public transportation.''

### § 604.5 Charter service agreement.

(a) A recipient seeking Federal assistance under the Federal Transit Laws to acquire or operate any public transportation equipment or facilities shall enter into a ''Charter Service Agreement'' as set out in paragraph (b) of this section.

(b) A recipient shall enter into a Charter Service Agreement if it receives Federal funds for equipment or facilities under the Federal Transit Laws. The terms of the Charter Service Agreement are as follows:

> The recipient agrees that it, and each of its subrecipients and third party contractors at any tier, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 CFR part 604 *et seq.*, the terms and conditions of which are incorporated herein by reference.

(c) The Charter Service Agreement is contained in the certifications and assurances published annually by FTA for applicants for Federal financial assistance. Once a recipient receives Federal funds, the certifications and assurances become part of their Grant Agreement or Cooperative Agreement for Federal financial assistance.

## Subpart B—Exceptions

### § 604.6 Purpose.

The purpose of this subpart is to identify the limited exceptions under which recipients may provide community-based charter services.

### § 604.7 Government officials.

(a) Except for a recipient with 1,000 or more buses in peak hour service, a recipient may provide charter service to government officials (Federal, State, and local) for non-transit related purposes, if the recipient:

(1) Provides the service in its geographic service area;

(2) Does not generate revenue from the charter service, except as required by law; and

(3) Records the charter service in a separate log that identifies the purpose of the trip, date, time, destination, number of government officials on the trip and vehicle number.

(b) A recipient that provides charter service under this section shall be limited annually to 80 charter service hours for providing trips to government officials for non-transit related purposes.

(c) A recipient may petition the Administrator for additional charter service hours only if the petition contains the following information:

(1) Description of the event and the number of charter service hours requested;

(2) Explanation of why registered charter providers in the geographic service area cannot perform the service (*e.g.*, equipment, time constraints, or other extenuating circumstances); and

(3) Evidence that the recipient has sent the request for additional hours to registered charter providers in its geographic service area.

### § 604.8 Qualified human service organizations.

(a) Except for a recipient with 1,000 or more buses in peak hour service, a recipient may provide charter service to a qualified human service organization serving persons:

(1) With mobility limitations related to advanced age;

(2) with disabilities; or

(3) struggling for self-sufficiency.

(b) If an organization serving persons described in paragraph (a) of this section receives funding, directly or indirectly, from the programs listed in Appendix A of this Part, the organization shall not be required to register on the FTA charter registration Web site.

(c) If an organization serving persons described in paragraph (a) of this section does not receive funding from any of the programs listed in Appendix A of this Part, the organization shall register on the FTA charter registration Web site in accordance with § 604.18.

(d) A recipient providing charter service under this exception shall record the qualified human service organization's name, address, phone number, e-mail address, date and time of service, number of passengers, origin, destination, trip length (miles and hours), fee collected, if any, and vehicle number.

### § 604.9 Hardship.

(a) A recipient in a non-urbanized area may provide charter service to an organization if the charter service provided by a registered charter provider would create a hardship on the organization because:

(1) The registered charter provider imposes a minimum trip duration and the requested charter service is less than the minimum trip duration; or

(2) The registered charter provider has deadhead time exceeding total trip time from initial pick-up to final drop-off.

(b) A recipient providing charter service under this section shall record the organization's name, address, phone number, e-mail address, date and time of service, number of passengers, destination, trip length (miles and hours), fee collected, if any, and vehicle number.

### § 604.10 Leasing FTA funded equipment and drivers.

(a) A recipient may lease FTA-funded equipment and drivers for charter service only if the following conditions exist:

(1) The private charter operator is registered on the FTA charter registration Web site;

(2) The registered charter provider owns and operates a charter service business;

(3) The registered charter provider received a request for charter service that exceeds its available capacity either of the number of vehicles operated by the registered charter provider or the number of accessible vehicles operated by the registered charter provider; and

(4) The registered charter provider has exhausted all of the available vehicles of all registered charter providers in the recipient's geographic service area.

(b) A recipient leasing vehicles and drivers to a registered charter provider under this provision shall record the registered charter provider's name, address, telephone number, number of vehicles leased, types of vehicles leased, vehicle identification numbers, and documentation presented by the registered charter provider in support of paragraph (a)(1) through (3) of this section.

**§ 604.11 Events of regional or national significance.**

(a) A recipient may petition the Administrator for an exception to the charter service regulations in order to provide charter service directly to a customer for a special event of regional or national significance. In order to petition the Administrator under this exception, a recipient shall first consult with registered charter providers in the geographic service area to determine whether or not registered charter providers are capable of providing the service.

(b) After completing the consultation required in paragraph (a) of this section, a recipient may petition for an exception under the following conditions:

(1) The recipient shall submit its petition for an exception to the Administrator at least 90 days before the first day of the special event;

(2) The recipient's petition shall describe the event, explain how it is special and of regional or national significance, explain the amount of charter service that registered charter providers are not capable of providing, explain how registered charter providers will be utilized for the event; and

(3) File the petition in the Special Events Docket number XXXX at *http://dms.dot.gov*.

(c) Upon receipt of a petition that meets the conditions set forth in paragraphs (a), (b)(1), (b)(2), and (b)(3) of this section, the Administrator shall review the materials and issue a written decision denying or granting in whole or in part the request. In making this decision, the Administrator may seek such additional information as the Administrator deems necessary.

(d) Any exception granted by the Administrator under this procedure shall be effective only for the special event identified in paragraph (b)(2) of this section.

**§ 604.12 When no registered charter provider responds to notice from a recipient.**

(a) A recipient may provide charter service to a customer if no registered charter provider responds to the notice issued in § 604.17:

(1) Within 72 hours for charter service requested to be provided in less than 30 days; or

(2) Within 14 calendar days for charter service requested to be provided in 30 days or more.

(b) A recipient shall not provide charter service under this section if a registered charter provider indicates interest in providing the charter service set out in the notice issued pursuant to § 604.17.

(c) A recipient shall record the charter service in a separate log that identifies the customer name, address, phone number, email address, date and time of trip, origin and destination, number of passengers, trip length (miles and hours), fee collected, if any, and vehicle number.

**§ 604.13 Agreement with registered charter providers.**

(a) A recipient may provide charter service directly to a customer after entering into an agreement with all registered charter providers in the recipient's geographic service area.

(b) For purposes of entering into an agreement with all registered charter providers as described in paragraph (a) of this section, a recipient shall determine the registered charter providers in its geographic service area each year before January 30th.

(c) A recipient shall enter into an agreement with all registered charter providers in its geographic service area under this section before February 15th of each year.

**§ 604.14 Administrator's discretion.**

(a) A recipient may petition the Administrator personally for an exception to the charter service regulations in order to provide charter service directly to a customer for a unique and time sensitive event, usually funerals of local, regional, or national significance. In order to petition the Administrator under this exception, a recipient shall submit a request with the following information:

(1) A description of the event and why it is unique and time sensitive;

(2) The type of charter service requested and the type of equipment;

(3) The anticipated number of charter service hours needed for the event;

(4) The anticipated number of vehicles and duration of the event; and

(5) A description of how provision of the requested charter service is in the public's interest.

(b) Upon receipt of a petition that meets the requirements set forth in paragraph (a) of this section, the Administrator shall review the materials and issue a written decision under his or her own signature denying or granting in whole or in part the request. In making this decision, the Administrator may seek such additional information as the Administrator deems necessary.

(c) Any exception granted by the Administrator under this procedure shall be effective only for the unique event identified in paragraph (a) of this section.

(d) A recipient shall send the request to the Administrator by facsimile or email.

(e) A recipient shall retain a copy of the Administrator's approval for a period of at least three years and shall include it in the recipient's quarterly report posted on the charter registration Web site.

**§ 604.15 Reporting requirements for all exceptions.**

(a) A recipient that provides charter service in accordance with one or more of the exceptions contained in this subpart shall maintain the notice and records required electronically and for a period of at least three years from the date of the charter service or lease.

(b) The records required under this subpart shall include a clear statement identifying which exception the recipient relied upon when it provided the charter service.

(c) Starting the first quarter after the effective date of this rule, a recipient providing charter service under these exceptions shall post the records required under this subpart on the FTA charter registration Web site 30 days after the end of each calendar quarter (*i.e.*, January 30th, April 30th, July 30th, and October 30th).

(d) In unusual circumstances described in the record for the service, a recipient may record generalized origin and destination information for safety or security reasons.

## Subpart C—Procedures for Registration and Notification

### § 604.16 Registration of private charter operators.

(a) Private charter operators shall provide the following information to be considered a registered charter provider:

(1) Company name, address, phone number, email address, and facsimile number;

(2) Federal or State motor carrier identifying number;

(3) The geographic service areas of public transit agencies that the private charter operator is able to provide charter service in;

(4) A certification that the private charter operator has valid insurance; and

(5) A private charter operator may also indicate whether they are willing to provide free or reduced rate charter services to registered qualified human service organizations.

(b) A private charter operator that provides valid information in this subpart is a ''registered charter provider'' for purposes of this Part and shall have standing to file a complaint consistent with subpart F.

(c) A recipient, a registered charter provider, or their duly authorized representative, may challenge a registered charter provider's registration and request removal of the private charter operator from FTA's charter registration Web site by filing a complaint consistent with subpart F.

(d) FTA shall refuse to post a private charter operator's information if the private charter operator fails to provide all of the required information as indicated on the FTA charter registration Web site.

(e) Registered charter providers shall provide current and accurate information on FTA's charter registration Web site, and shall update that information no less frequently than every two years.

### § 604.17 Notification to registered charter providers.

(a) Upon receiving a request for charter service, a recipient may:

(1) Decline to provide the service and refer the requestor to FTA's charter registration Web site;

(2) Provide the service pursuant to an exception set out in subpart B of this Part; or

(3) Provide notice to registered charter providers as set out in this section and provide the service pursuant to the exception contained in § 604.12.

(b) Upon receipt of a request for charter service, a recipient interested in providing the charter service shall provide notice to registered charter providers in the recipient's geographic service area in the following manner:

(1) Notice of the request shall be sent by the close of business on the day the recipient receives the request unless the recipient received the request after 2 p.m., in which case the recipient shall send the notice by the close of business the next business day;

(2) Notice sent to the list of registered charter providers shall include:

(i) Customer name, address, phone number, and email address (if available);

(ii) Requested date of service;

(iii) Approximate number of passengers;

(iv) Whether the type of equipment requested is (are) bus(es) or van(s); and

(v) Trip itinerary and approximate duration.

(c) A recipient shall retain an electronic copy of the notice and the list of registered charter providers that were sent notice of the requested charter service for a period of at least three years from the date the notice was sent.

## Subpart D—Registration of Qualified Human Service Organizations and Duties for Recipients Regarding Charter Registration Web site

### § 604.18 Registration of qualified human service organizations.

(a) Qualified human service organizations that do not receive funds from Federal programs listed in Appendix A but serve individuals described in § 604.8, shall register on FTA's charter registration Web site by submitting the following information:

(1) Name of organization, address, phone number, email address, and facsimile number;

(2) The geographic service area of the recipient in which the qualified human service organization resides;

(3) Basic financial information regarding the qualified human service organization and whether the qualified human service organization is exempt from taxation under sections 501(c)(1), (3), (4), or (19) of the Internal Revenue Code, or is a unit of Federal, State or local government;

(4) Whether the qualified human service organization receives funds directly or indirectly from a State or local program, and if so, which program(s); and

(5) A narrative statement describing how the requested service is consistent with the mission of the qualified human service organization.

(b) A qualified human service organization is eligible to receive charter services from a recipient if the qualified human service organization:

(1) Registers on the FTA Web site in accordance with paragraph (a) of this section at least 60 days before the date of the requested charter service;

(2) Verifies FTA's receipt of its registration by viewing its information on the FTA charter registration Web site; and

(3) Certifies that the funding received from a state or local program includes funding for transportation.

(c) A registered charter provider may challenge a qualified human service organization's status to receive charter services from a recipient by requesting removal of the qualified human service organization from FTA's charter registration Web site by filing a complaint consistent with subpart F.

(d) A qualified human service organization shall provide current and accurate information on FTA's charter registration, and shall update that information no less frequently than every two years.

### § 604.19 Duties for recipients with respect to charter registration Web site.

A recipient that provides charter service allowed under this Part shall train its affected employees and contractors on how to use the FTA charter registration Web site.

## Subpart E—Advisory Opinions

### § 604.20 Purpose.

The purpose of this subpart is to set out the requirements for requesting an advisory opinion from FTA regarding specific, factual events. Advisory opinions are intended to give formal advice to a recipient, registered charter providers, or their duly authorized representative, regarding the requirements of this Part. This subpart also describes the conditions under which an advisory opinion may be used in subsequent proceedings.

### § 604.21 Request for an advisory opinion.

(a) A recipient, a registered charter provider, or their duly authorized representative, may request an advisory opinion from the Chief Counsel on a matter regarding specific, factual events only.

(b) A request for an advisory opinion shall be submitted in the following form:

[Date]

Chief Counsel, Federal Transit Administration, 400 Seventh Street, SW., Room 9316,

Washington, DC 20590

Re: Request for Advisory Opinion

The undersigned submits this request for an advisory opinion of the FTA Chief Counsel with respect to [the general nature of the matter involved].

A. Issues involved.

[A concise statement of the issues and questions on which an opinion is requested.]

B. Statement of facts and law.

[A full statement of all facts and legal points relevant to the request.]

The undersigned certifies that, to the best of his/her knowledge and belief, this request includes all data, information, and views relevant to the matter, whether favorable or unfavorable to the position of the undersigned, which is the subject of the request.

[Signature]

[Printed name]

[Title of person making request]

[Mailing address]

[Telephone number]

[email address]

(c) A request for an advisory opinion may be denied if:

(1) The request contains incomplete information on which to base an informed advisory opinion;

(2) The Chief Counsel concludes that an advisory opinion cannot reasonably be given on the matter involved;

(3) The matter is adequately covered by a prior advisory opinion or a regulation;

(4) The Chief Counsel otherwise concludes that an advisory opinion would not be in the public interest.

### § 604.22 Processing of advisory opinions.

(a) A request for an advisory opinion shall be sent to the address indicated in § 604.21(b) of this subpart; filed electronically at *http://dms.dot.gov* or sent to the dockets office located at 400 Seventh Street SW., PL–401, Washington, DC 20590, in the Charter Service Advisory Opinion Docket number xxxx; and sent to the recipient, if appropriate.

(b) The Chief Counsel shall make every effort to respond to a request for an advisory opinion within ten days of receipt of a request that complies with § 604.21(b). The Chief Counsel will send the response to the requestor, the docket, and the recipient, if appropriate.

(c) The Chief Counsel may respond to any request to FTA for regulatory guidance as a request for an advisory opinion, in which case the request will be filed in the Charter Service Advisory Opinion Docket, and a copy sent to the recipient, if appropriate.

### § 604.23 Effect of an advisory opinion.

(a) An advisory opinion represents the formal position of FTA on a matter, and except as provided in § 604.24 of this subpart, obligates the agency to follow it until it is amended or revoked.

(b) An advisory opinion may be used in administrative or court proceedings to illustrate acceptable and unacceptable procedures or standards, but not as a legal requirement and is limited to the factual circumstances described in the request for an advisory opinion. The Chief Counsel's advisory opinion shall not be binding upon a Presiding Official conducting a proceeding under subpart I of this Part.

(c) A statement made or advice provided by an FTA employee constitutes an advisory opinion only if it is issued in writing under this section. A statement or advice given by an FTA employee orally, or given in writing, but not under this section, is an informal communication that represents the best judgment of that employee at the time but does not constitute an advisory opinion, does not necessarily represent the formal position of FTA, and does not bind or otherwise obligate or commit the agency to the views expressed.

### § 604.24 Special considerations.

Based on new facts involving significant financial considerations, the Chief Counsel may take appropriate enforcement action contrary to an advisory opinion before amending or revoking the opinion. This action shall be taken only with the approval of the Administrator, who may not delegate this function.

## Subpart F—Complaints

### § 604.25 Purpose.

This subpart describes the requirements necessary for filing a complaint with FTA regarding the provision of charter service by recipients or filing a complaint challenging the listing of a private charter operator or qualified human service organization on the FTA charter registration Web site. **Note:** FTA expects all parties to attempt to resolve matters informally before beginning the official complaint process, which can be time-consuming and expensive to all parties involved.

### § 604.26 Complaints and decisions regarding removal of private charter operators or qualified human service organizations from registration list.

(a) A recipient, a registered charter provider, or their duly authorized representative, may challenge the listing of a registered charter provider or qualified human service organization on FTA's charter registration Web site by filing a complaint that meets the following:

(1) States the name and address of each entity who is the subject of the complaint;

(2) Provides a concise but complete statement of the facts relied upon to substantiate the reason why the private charter operator or qualified human service organization should not be listed on the FTA charter registration website;

(3) Files the complaint electronically by submitting it to the Charter Service Complaint Docket number xxxx; and

(4) Serves the complaint by email (or facsimile number if no email address is available) and attaches documents offered in support of the complaint upon all entities named in the complaint.

(b) The private charter operator or qualified human service organization shall have 7 days to answer the complaint and shall file such answer and all supporting documentation in the Charter Service Complaint Docket number xxxxx.

(c) A recipient, qualified human service organization, or a registered charter provider, or their duly authorized representative, shall not file a reply to the answer.

(d) FTA shall determine whether to remove the private charter operator or qualified human service organization from the FTA charter registration website based on probative evidence of one or more of the following:

(1) Bad faith;

(2) Fraud;

(3) Lapse of insurance;

(4) Lapse of other documentation; or

(5) The filing of more than one complaint, which on its face, does not state a claim that warrants an investigation or further action by FTA.

(e) A determination whether or not to remove a private charter operator or qualified human service organization from the registration list shall be sent to the parties within 30 days of the date of the response required in paragraph (b) of this section. FTA's decision, after consultation with the Chief Counsel, shall state:

(1) Reasons for allowing the continued listing or removing the private charter operator or human service organization from the registration list;

(2) if removal is ordered, the length of time (not to exceed three years) the private charter operator or qualified human service organization shall be barred from the registration list; and

(3) the date by which the private charter operator or qualified human service organization may re-apply for registration on the FTA charter registration website.

(f) FTA's determination in this section shall not be subject to review under subparts J or K of this Part.

**§ 604.27 Complaints, answers, replies, and other documents.**

(a) A registered charter provider, or their duly authorized representative (''complainant''), affected by an alleged noncompliance of this Part may file a complaint with the Office of the Chief Counsel.

(b) Except as provided otherwise in § 604.26, complaints filed under this subpart shall—

(1) Title the document ''Notice of Charter Service Complaint;''

(2) State the name and address of each recipient who is the subject of the complaint and, with respect to each recipient, the specific provisions of the Federal Transit Laws that the complainant believes were violated;

(3) Serve the complaint in accordance with § 604.31, along with all documents then available in the exercise of reasonable diligence, offered in support of the complaint, upon all recipients named in the complaint as being responsible for the alleged action(s) or omission(s) upon which the complaint is based;

(4) Provide a concise but complete statement of the facts relied upon to substantiate each allegation;

(5) Describe how the complainant was directly and substantially affected by the things done or omitted by the recipients; and

(6) Identify each registered charter provider associated with the complaint.

(c) Unless the complaint is dismissed pursuant to § 604.28 or § 604.29, FTA shall notify the complainant, respondent, and state recipient, if applicable, within 30 days after the date FTA receives the complaint that the complaint has been docketed. Respondents shall have 30 days from the date of service of the FTA notification to file an answer.

(d) The complainant shall file a reply within 20 days of the date of service of the respondent's answer.

(e) The respondent may file a rebuttal within 10 days of the date of service of the reply.

(f) The answer, reply, and rebuttal shall, like the complaint, be accompanied by supporting documentation upon which the parties rely.

(g) The answer shall deny or admit the allegations made in the complaint or state that the entity filing the document is without sufficient knowledge or information to admit or deny an allegation, and shall assert any affirmative defense.

(h) The answer, reply, and rebuttal shall each contain a concise but complete statement of the facts relied upon to substantiate the answers, admissions, denials, or averments made.

(i) The respondent's answer may include a motion to dismiss the complaint, or any portion thereof, with a supporting memorandum of points and authorities.

(j) The complainant may withdraw a complaint at any time after filing by serving a ''Notification of Withdrawal'' on the Chief Counsel and the respondent.

**§ 604.28 Dismissals.**

(a) Within 20 days after the receipt of a complaint described in § 604.27, the Office of the Chief Counsel shall provide reasons for dismissing a complaint, or any claim in the complaint, with prejudice under this section if:

(1) It appears on its face to be outside the jurisdiction of FTA under the Federal Transit Laws;

(2) On its face it does not state a claim that warrants an investigation or further action by FTA; or

(3) The complainant lacks standing to file a complaint under subparts B, C, or D of this Part.

**§ 604.29 Incomplete complaints.**

If a complaint is not dismissed pursuant to § 604.28, but is deficient as to one or more of the requirements set forth in § 604.27, the Office of the Chief Counsel will dismiss the complaint within 20 days after receiving it. Dismissal shall be without prejudice and the complainant may re-file after amendment to correct the deficiency. The Chief Counsel's dismissal shall include the reasons for the dismissal without prejudice.

**§ 604.30 Filing.**

(a) Filing address. Unless provided otherwise, the complainant shall file the complaint with the Office of the Chief Counsel, 400 Seventh Street, SW., Room 9316, Washington, DC 20590 and file it electronically at *http://dms.dot.gov* or mail it to the docket at 400 Seventh Street, SW., PL-401, Washington, DC 20590. Filings sent to the docket shall include the Charter Service Complaint docket number xxxx.

(b) Date and method of filing. Filing of any document shall be by personal delivery or U.S. mail. Unless the date is shown to be inaccurate, documents to be filed with FTA shall be deemed filed:

(1) On the date of personal delivery;

(2) On the mailing date shown on the certificate of service;

(3) On the date shown on the postmark if there is no certificate of service; or

(4) On the mailing date shown by other evidence if there is no certificate of service and no postmark.

(c) E-mail. A party may also send the document by facsimile or email, but delivery by either facsimile or email shall not constitute service as described in § 604.31.

(d) Number of copies. Unless otherwise specified, an executed original shall be filed with FTA.

(e) Form. Documents filed with FTA shall be typewritten or legibly printed. In the case of docketed proceedings, the document shall include a title and the docket number of the proceeding on the front page.

(f) Signing of documents and other papers. The original of every document filed shall be signed by the person filing it or the person's duly authorized representative. Subject to the enforcement provisions contained in this subpart, the signature shall serve as a certification that the signer has read the document and, based on reasonable inquiry, to the best of the signer's knowledge, information, and belief, the document is—

(1) Consistent with this part;

(2) Warranted by existing law or that a good faith argument exists for extension, modification, or reversal of existing law; and

(3) Not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the administrative process.

**§ 604.31 Service.**

(a) Designation of person to receive service. The initial document filed by the complainant shall state on the first page of the document for all parties to be served:

(1) The title of the document;

(2) The name, post office address, telephone number; and

(3) The facsimile number, if any, and email address(es), if any.

If any of the above items change during the proceeding, the person shall promptly file notice of the change with FTA and the Presiding Official, if appropriate, and shall serve the notice on all other parties to the proceeding.

(b) Docket numbers. Each submission identified as a complaint under this Part by the submitting party shall be filed in the Charter Service Complaint docket number xxxx.

(h) Who must be served. Copies of all documents filed with FTA shall be served by the entity filing them on all parties to the proceeding. A certificate of service shall accompany all

documents when they are tendered for filing and shall certify concurrent service on FTA and all parties. Certificates of service shall be in substantially the following form:

I hereby certify that I have this day served the foregoing [name of document] on the following persons at the following addresses and email or facsimile numbers (if also served by email or facsimile) by [specify method of service]:

[list persons, addresses, and email or facsimile numbers]

Dated this __ day of __, 20__.

[signature], for [party]

(i) Method of service. Except as otherwise provided in § 604.26, or agreed by the parties and the Presiding Official, as appropriate, the method of service is personal delivery or U.S. mail.

(j) Presumption of service. There shall be a presumption of lawful service—

(1) When acknowledgment of receipt is by a person who customarily or in the ordinary course of business receives mail at the address of the party or of the person designated under this section; or

(2) When a properly addressed envelope, sent to the most current address submitted under this section has been returned as undeliverable, unclaimed, or refused.

## Subpart G—Investigations

### § 604.32 Investigation of complaint.

(a) If, based on the pleadings, there appears to be a reasonable basis for investigation, FTA shall investigate the subject matter of the complaint.

(b) The investigation may include a review of written submissions or pleadings of the parties, as supplemented by any informal investigation FTA considers necessary and by additional information furnished by the parties at FTA request. Each party shall file documents that it considers sufficient to present all relevant facts and argument necessary for FTA to determine whether the recipient is in compliance.

(c) The Chief Counsel shall send a notice to complainant(s) and respondent(s) once an investigation is complete, but not later than 90 days after receipt of the last pleading specified in § 604.27 was due to FTA.

### § 604.33 Agency initiation of investigation.

(a) Notwithstanding any other provision of law, FTA may initiate its own investigation of any matter within the applicability of this Part without having received a complaint. The investigation may include, without limitation, any of the actions described in § 604.32.

(b) Following the initiation of an investigation under this section, FTA sends a notice to the entities subject to investigation. The notice will set forth the areas of FTA's concern and the reasons; request a response to the notice within 30 days of the date of service; and inform the respondent that FTA will, in its discretion, invite good faith efforts to resolve the matter.

(c) If the matters addressed in the FTA notice are not resolved informally, the Chief Counsel may refer the matter to a Presiding Official.

## Subpart H—Initial Decisions by FTA and Referrals to a Presiding Official (PO)

### § 604.34 Initial decisions and referrals to a PO.

(a) After receiving a complaint consistent with § 604.27, and conducting an investigation, the Chief Counsel may:

(1) Issue an initial decision, signed by a headquarters office, based on the pleadings filed to date;

(2) Refer the matter to a PO; or

(3) Dismiss the complaint pursuant to § 604.28.

(b) If the Chief Counsel refers the matter to a PO, the Chief Counsel shall send out a hearing order that sets forth the following:

(1) The allegations in the complaint, or notice of investigation, and the chronology and results of the investigation preliminary to the hearing;

(2) The relevant statutory, judicial, regulatory, and other authorities;

(3) The issues to be decided;

(4) Such rules of procedure as may be necessary to supplement the provisions of this Part;

(5) The name and address of the PO, and the assignment of authority to the PO to conduct the hearing in accordance with the procedures set forth in this Part; and

(6) The date by which the PO is directed to issue an initial decision.

### § 604.35 Separation of functions.

(a) Proceedings under this Part shall be handled by an FTA attorney.

(b) After issuance of an initial decision by a headquarters office, the FTA employee or contractor engaged in the performance of investigative or prosecutorial functions in a proceeding under this Part will not, in that case or a factually related case, participate or give advice in a final decision by the Administrator or designee on written appeal, and will not, except as counsel or as witness in the public proceedings, engage in any substantive communication regarding that case or a related case with the Administrator on written appeal, or FTA employees advising those officials in that capacity.

## Subpart I—Hearings

### § 604.36 Powers of a PO.

A PO may:

(a) Give notice of, and hold, pre-hearing conferences and hearings;

(b) Administer oaths and affirmations;

(c) Issue administrative subpoenas and issue notices of deposition requested by the parties;

(d) Limit the frequency and extent of discovery;

(e) Rule on offers of proof;

(f) Receive relevant and material evidence;

(g) Regulate the course of the hearing in accordance with the rules of this part to avoid unnecessary and duplicative proceedings in the interest of prompt and fair resolution of the matters at issue;

(h) Hold conferences to settle or to simplify the issues by consent of the parties;

(i) Dispose of procedural motions and requests;

(j) Examine witnesses; and

(k) Make findings of fact and conclusions of law, and issue an initial decision.

### § 604.37 Appearances, parties, and rights of parties.

(a) Any party to the hearing may appear and be heard in person and any party to the hearing may be accompanied, represented, or advised by an attorney licensed by a State, the District of Columbia, or a territory of the United States to practice law or appear before the courts of that State or territory, or by another duly authorized representative. An attorney, or other duly authorized representative, who represents a party shall file a notice of appearance in accordance with § 604.30 and § 604.31.

(b) The parties to the hearing are the respondent(s) named in the hearing order, the complainant(s), and FTA, as represented by the PO.

(c) The parties to the hearing may agree to extend for a reasonable period of time the time for filing a document under this Part. If the parties agree, the PO shall grant one extension of time to each party. The party seeking the extension of time shall submit a draft order to the PO to be signed by the PO and filed with the hearing docket. The PO may grant additional oral requests for an extension of time where the parties agree to the extension.

(d) An extension of time granted by the PO for any reason extends the due date for the PO's initial decision and for the final agency decision by the length of time in the PO's decision.

**§ 604.38 Discovery.**

(a) Permissible forms of discovery shall be within the discretion of the PO.

(b) The PO shall limit the frequency and extent of discovery permitted by this section if a party shows that—

(1) The information requested is cumulative or repetitious;

(2) The information requested may be obtained from another less burdensome and more convenient source;

(3) The party requesting the information has had ample opportunity to obtain the information through other discovery methods permitted under this section; or

(4) The method or scope of discovery requested by the party is unduly burdensome or expensive.

**§ 604.39 Depositions.**

(a) For good cause shown, the PO may order that the testimony of a witness may be taken by deposition and that the witness produce documentary evidence in connection with such testimony. Generally, an order to take the deposition of a witness is entered only if:

(1) The person whose deposition is to be taken would be unavailable at the hearing;

(2) The deposition is deemed necessary to perpetuate the testimony of the witness; or

(3) The taking of the deposition is necessary to prevent undue and excessive expense to a party and will not result in undue burden to other parties or in undue delay.

(b) Any party to the hearing desiring to take the deposition of a witness according to the terms set out in this subpart, shall file a motion with the PO, with a copy of the motion served on each party. The motion shall include:

(1) The name and residence of the witness;

(2) The time and place for the taking of the proposed deposition;

(3) The reasons why such deposition should be taken; and

(4) A general description of the matters concerning which the witness will be asked to testify.

(c) If good cause is shown in the motion, the PO in his or her discretion, issues an order authorizing the deposition and specifying the name of the witness to be deposed, the location and time of the deposition and the general scope and subject matter of the testimony to be taken.

(d) Witnesses whose testimony is taken by deposition shall be sworn or shall affirm before any questions are put to them. Each question propounded shall be recorded and the answers of the witness transcribed verbatim. The written transcript shall be subscribed by the witness, unless the parties by stipulation waive the signing, or the witness is ill, cannot be found, or refuses to sign. The reporter shall note the reason for failure to sign.

**§ 604.40 Public disclosure of evidence.**

(a) Except as provided in this section, the hearing shall be open to the public.

(b) The PO may order that any information contained in the record be withheld from public disclosure. Any person may object to disclosure of information in the record by filing a written motion to withhold specific information with the PO. The person shall state specific grounds for nondisclosure in the motion.

(c) The PO shall grant the motion to withhold information from public disclosure if the PO determines that disclosure would be in violation of the Privacy Act, would reveal trade secrets or privileged or confidential commercial or financial information, or is otherwise prohibited by law.

**§ 604.41 Standard of proof.**

The PO shall issue an initial decision or shall rule in a party's favor only if the decision or ruling is supported by, and in accordance with, reliable, probative, and substantial evidence contained in the record and is in accordance with law.

**§ 604.42 Burden of proof.**

(a) The burden of proof of noncompliance with this Part, determination, or agreement issued under the authority of the Federal Transit Laws is on registered charter provider.

(b) Except as otherwise provided by statute or rule, the proponent of a motion, request, or order has the burden of proof.

(c) A party who has asserted an affirmative defense has the burden of proving the affirmative defense.

**§ 604.43 Offer of proof.**

A party whose evidence has been excluded by a ruling of the PO may offer the evidence on the record when filing an appeal.

**§ 604.44 Record.**

(a) The transcript of all testimony in the hearing, all exhibits received into evidence, all motions, applications, requests and rulings, and all documents included in the hearing record shall constitute the exclusive record for decision in the proceedings and the basis for the issuance of any orders.

(b) Any interested person may examine the record by entering the docket number at *http://dms.dot.gov* or after payment of reasonable costs for search and reproduction of the record.

**§ 604.45 Waiver of procedures.**

(a) The PO shall waive such procedural steps as all parties to the hearing agree to waive before issuance of an initial decision.

(b) Consent to a waiver of any procedural step bars the raising of this issue on appeal.

(c) The parties may not by consent waive the obligation of the PO to enter an initial decision on the record.

**§ 604.46 Recommended decision by a PO.**

(a) The PO shall issue a recommended decision based on the record developed during the proceeding and shall send the recommended decision to a headquarters office for ratification or modification not later than 110 days after the referral from the Chief Counsel.

(b) The headquarters office shall ratify or modify the PO's recommended decision within 30 days of receiving the recommended decision. The headquarters office shall serve its initial decision, which is capable of being appealed to the Administrator, on all parties to the proceeding.

**§ 604.47 Remedies.**

(a) If the headquarters office determines that a violation of this Part occurred, the headquarters office shall take any of the following actions:

(1) Bar the recipient from receiving future Federal financial assistance from FTA;

(2) Order the refund of revenue collected in violation of this Part to the U.S. Treasury; or

(3) Order the withholding of a reasonable percentage of available Federal financial assistance.

(b) In determining the type and amount of remedy, the headquarters office shall consider the following factors:

(1) The nature and circumstances of the violation;

(2) The extent and gravity of the violation;

(3) The revenue earned by providing the charter service;

(4) The operating budget of the recipient; and

(5) Such other matters as justice may require.

(c) The headquarters office shall mitigate the remedy when the recipient can document corrective action of alleged violation. The headquarters office's decision to mitigate a remedy shall be determined on the basis of how much corrective action was taken by the recipient and when it was taken. Systemic action to prevent future

violations will be given greater consideration than action simply to remedy violations identified during FTA's inspection or identified in a complaint.

(d) In the event the headquarters office finds a pattern of violations, the remedy ordered shall bar a recipient from receiving Federal transit assistance in an amount that the headquarters office considers appropriate.

(e) The headquarters office may propose to withhold Federal financial assistance in a lump sum or over a period of time not to exceed five years.

## Subpart J—Appeal to Administrator and Final Agency Orders

### § 604.48 Appeal from a headquarters office initial decision.

(a) Each party adversely affected by the headquarters office's initial decision may file an appeal with the Administrator within 21 days of the date of the headquarters office issued their initial decision. Each party may file a reply to an appeal within 21 days after it is served on the party. Filing and service of appeals and replies shall be by personal delivery consistent with §§ 604.30 and 604.31.

(b) If an appeal is filed, the Administrator reviews the entire record and issues a final agency decision and order based on the record within 30 days of the due date of the reply. If no appeal is filed, the Administrator may take review of the case on his or her own motion. If the Administrator finds that the respondent is not in compliance with the Federal Transit Laws or any regulation, or agreement the final agency order includes a statement of corrective action, if appropriate, and identifies remedies.

(c) If no appeal is filed, and the Administrator does not take review of the initial decision by the headquarters office on the Administrator's own motion, the headquarters office's initial decision shall take effect as the final agency decision and order on the twenty-first day after the actual date the headquarters office's initial decision is issued.

(d) The failure to file an appeal is deemed a waiver of any rights to seek judicial review of a headquarters office initial decision that becomes a final agency decision by operation of paragraph (c) of this section.

### § 604.49 Administrator's discretionary review of a headquarters office's initial decision.

(a) If the Administrator takes review on the Administrator's own motion, the Administrator shall issue a notice of review by the twenty-first day after the actual date the headquarters office's initial decision that contains the following information:

(1) The notice sets forth the specific findings of fact and conclusions of law in the initial decision subject to review by the Administrator.

(2) Parties may file one brief on review to the Administrator or rely on their post-hearing briefs to the headquarters office. Briefs on review shall be filed not later than 10 days after service of the notice of review. Filing and service of briefs on review shall be by personal delivery consistent with § 604.30 and § 604.31.

(3) The Administrator issues a final agency decision and order within 30 days of the due date of the briefs on review. If the Administrator finds that the respondent is not in compliance with the Federal Transit Laws, regulations or agreement, the final agency order includes a statement of corrective action, if appropriate, and identifies remedies.

## Subpart K—Judicial Review

### § 604.50 Judicial review of a final decision and order.

(a) A person may seek judicial review, in an appropriate United States District Court, of a final decision and order of the Administrator as provided in 5 U.S.C. 701–706. A party seeking judicial review of a final decision and order shall file a petition for review with the Court not later than 60 days after a final decision and order is effective.

(b) The following do not constitute final decisions and orders subject to judicial review:

(1) An FTA decision to dismiss a complaint as set forth in §§ 604.28 and 604.29;

(2) FTA's determination to remove or allow a listing on FTA's charter registration website in accordance with § 604.26;

(3) A recommended decision issued by a PO at the conclusion of a hearing;

(4) A headquarters office decision that becomes the final decision of the Administrator because it was not appealed within the stated timeframes.

Issued this 12th day of February, 2007.

**James S. Simpson,**

*Administrator.*

[FR Doc. E7–2715 Filed 2–14–07; 8:45 am]

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## 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.

## 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.

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Federal home loan bank system:

Bank director eligibility, appointment, and elections; comments due by 2-23-07; published 1-24-07 [FR 07-00271]

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Administrative rulings and decisions:

Ozone-depleting substances use; designations; removed; comments due by 2-20-07; published 12-7-06 [FR E6-20796]

Ozone-depleting substances use; essential-use

## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

**H.R. 188/P.L. 110–3**

To provide a new effective date for the applicability of certain provisions of law to Public Law 105-331. (Feb. 8, 2007; 121 Stat. 6)

**Last List February 6, 2007**

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