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

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

RESERVATIONS: (202) 741-6008



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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 305 and 318

[Docket No. APHIS-2006-0027]

RIN 0579-AC15

Interstate Movement of Fruits and Vegetables From Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to remove vapor heat treatment as an approved treatment for bell pepper, eggplant, Italian squash, and tomato moved interstate from Hawaii. This action is necessary because these four commodities can serve as hosts for the solanum fruit fly, which has been detected in Hawaii. Vapor heat treatment is not an approved treatment for that pest. We are also providing for the use of irradiation as an approved treatment for all *Capsicum* spp. (peppers) and *Cucurbita* spp. (squash) moved interstate from Hawaii. This action will relieve unnecessary restrictions on the interstate movement of peppers and squash and allow a greater variety of *Capsicum* spp. and *Cucurbita* spp. to be moved interstate from Hawaii.

EFFECTIVE DATE: March 26, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. David B. Lamb, Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 734-8758.

SUPPLEMENTARY INFORMATION:

Background

The Hawaiian fruits and vegetables regulations, contained in 7 CFR 318.13 through 318.13-17 (referred to below as the regulations), govern, among other things, the interstate movement of fruits and vegetables from Hawaii. Regulation is necessary to prevent the spread of dangerous plant diseases and pests that occur in Hawaii. Some fruits and vegetables regulated under the Hawaiian fruits and vegetables regulations are allowed to move interstate if they are treated with an approved treatment for certain plant pests. Lists of approved treatments for these fruits and vegetables and requirements for conducting these treatments are contained in 7 CFR part 305.

On October 11, 2006, we published in the **Federal Register** (71 FR 59694-59696, Docket No. APHIS-2006-0027) a proposal¹ to amend the regulations by removing vapor heat treatment as an approved treatment for bell pepper, eggplant, Italian squash, and tomato moved interstate from Hawaii. We proposed this action because these four commodities can serve as hosts for the solanum fruit fly, which has been detected in Hawaii, and vapor heat treatment is not an approved treatment for that pest. We also proposed to provide for the use of irradiation as an approved treatment for all *Capsicum* spp. (peppers) and *Cucurbita* spp. (squash) moved interstate from Hawaii. Treatment with irradiation is approved to neutralize all fruit flies of the family Tephritidae.

We solicited comments concerning our proposal for 60 days ending December 11, 2006. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

¹To view the proposed rule go to <http://www.regulations.gov>, click on the "Advanced Search" tab, and select "Docket Search." In the Docket ID field, enter APHIS-2006-0027, then click "Submit." Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

Executive Order 12866 and Regulatory Flexibility Act

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

This rule is in response to a species of fruit fly that has been detected in Hawaii, the solanum fruit fly (*Bactrocera latifrons*). Bell peppers, eggplant, Italian squash, and tomatoes are the four commodities for which vapor heat treatment has been an approved treatment that are affected by the solanum fruit fly. Because limited research has been done regarding the effectiveness of vapor heat treatment at neutralizing solanum fruit fly, APHIS is removing vapor heat treatment from the list of approved treatments for bell peppers, eggplant, Italian squash, and tomatoes moved interstate from Hawaii.

While vapor heat treatment will no longer be an approved treatment, irradiation is an approved treatment for the interstate movement of bell peppers and Italian squash from Hawaii. We are amending the regulations to approve irradiation as a treatment for all species of the genus *Capsicum* (peppers), not just bell peppers, and all species of the genus *Cucurbita* (squash), not just the Italian squash. APHIS has previously determined that an irradiation dose of 150 gray is sufficient to neutralize all fruit flies that affect *Capsicum* spp. and *Cucurbita* spp. in Hawaii, including the solanum fruit fly.

Approximately \$15.4 million worth of eggplant, green peppers, Italian squash, Oriental squash, and tomatoes were produced in the State of Hawaii in 2004, amounting to 52 million pounds (table 1). However, none of the eggplant, green peppers, Italian squash, or tomatoes produced in Hawaii in 2004 was moved interstate to the U.S. mainland. According to the Hawaii Department of Agriculture, none of these commodities has been moved interstate from Hawaii to the U.S. mainland within the last 2 years.

TABLE 1.—PRODUCTION AND VALUE OF HAWAIIAN EGGPLANT, PEPPERS, SQUASH, AND TOMATOES, 2004

Commodity	Quantity (lb)	Value
Eggplant	1,050,000	\$809,000
Peppers (Green)	3,200,000	2,208,000
Squash (Italian, Oriental)	2,350,000	1,263,000
Tomatoes	16,800,000	11,088,000
Total	52,200,000	15,368,000

Source: USDA, Hawaii Agricultural Statistics, 2006.

The regulations will continue to give Hawaiian entities the opportunity to move *Capsicum* spp. and *Cucurbita* spp. interstate. While vapor heat treatment will no longer be an approved treatment for bell peppers and Italian squash, irradiation will become an approved treatment for all *Capsicum* spp. and *Cucurbita* spp. Irradiation will continue to be an approved treatment for eggplant and tomatoes as well.

Accordingly, we do not expect that this rule will have a significant economic impact on a substantial number of small entities. This rule is necessary to safeguard the U.S. mainland from the introduction of solanum fruit fly (*Bactrocera latifrons*). Because in recent years eggplant, peppers, squash, and tomatoes have not been moved interstate from Hawaii, the rule is not expected to have a significant impact on small or large entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to

Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Lists of Subjects

7 CFR Part 305

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

7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto

Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

■ Accordingly, we are amending 7 CFR parts 305 and 318 as follows:

PART 305—PHYTOSANITARY TREATMENTS

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

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

■ 2. In § 305.2, in the table in paragraph (h)(2)(ii), the entry for Hawaii is amended as follows:

■ a. By removing the entries for “Bell pepper” and “Squash, Italian”.

■ b. By adding, in alphabetical order, entries for “*Capsicum* spp. (peppers)” and “*Cucurbita* spp. (squash)” to read as set forth below.

■ c. By revising the entries for “Eggplant” and “Tomato” to read as set forth below

§ 305.2 Approved treatments.

*	*	*	*	*
(h)	*	*	*	
(2)	*	*	*	
(ii)	*	*	*	

Location	Commodity	Pest	Treatment schedule
*	*	*	*
Hawaii .....	.....	.....	*
*	<i>Capsicum</i> spp. (peppers) ..	Fruit flies of the family Tephritidae	IR.
*	<i>Cucurbita</i> spp. (squash)	Fruit flies of the family Tephritidae	IR.
*	Eggplant	Fruit flies of the family Tephritidae	IR.
*	Tomato	Fruit flies of the family Tephritidae <i>Ceratitis capitata</i>	IR. MB T101-c-3.
*	*	*	*

* * * * *

■ 3. In § 305.34, in paragraph (a)(1), the table is amended as follows:

■ a. By removing the entries for “Bell pepper” and “Italian squash”.

■ b. By adding, in alphabetical order, entries for “*Capsicum* spp. (peppers)” and “*Cucurbita* spp. (squash)” to read as set forth below.

§ 305.34 Irradiation treatment of certain fruits and vegetables from Hawaii, Puerto Rico, and the U.S. Virgin Islands.

- (a) * * *
- (1) * * *

IRRADIATION FOR PLANT PESTS IN HAWAIIAN FRUITS AND VEGETABLES

Commodity	Dose (gray)
* * * * *	
<i>Capsicum</i> spp. (peppers)	150
* * * * *	
<i>Cucurbita</i> spp. (squash)	150
* * * * *	
* * * * *	

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

■ 4. The authority citation for part 318 continues to read as follows:

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

§ 318.13–4b [Amended]

■ 5. In § 318.13–4b, paragraph (b) is amended as follows:

- a. By removing the words “bell peppers” and adding the words “*Capsicum* spp. (peppers)” in their place.
- b. By adding the words “*Cucurbita* spp. (squash),” after the word “carambolas,”.
- c. By removing the words “Italian squash,”.

§ 318.13–4f [Amended]

■ 6. Section 318.13–4f is amended as follows:

- a. By removing the words “bell pepper” and adding the words “*Capsicum* spp. (peppers)” in their place.
- b. By adding the words “*Cucurbita* spp. (squash),” after the word “carambola,”.
- c. By removing the words “Italian squash,”.

Done in Washington, DC, this 16th day of February 2007.

W. Ron DeHaven,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–3124 Filed 2–22–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25948; Directorate Identifier 2006–NE–32–AD; Amendment 39–14951; AD 2007–04–19]

RIN 2120–AA64

Airworthiness Directives; Superior Air Parts, Inc. (SAP), Cast Cylinder Assemblies Part Numbers Series: SA47000L, SA47000S, SA52000, SA55000, SL32000W, SL32000WH, SL32006W, SL36000TW, SL36000W, and SL36006W

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain SAP cast cylinder assemblies installed in Teledyne Continental Motors (TCM) 470, 520, and 550 series reciprocating engines, Lycoming Engines (LE) 320, 360, and 540 series reciprocating engines, Avco Lycoming (AL) 540 series reciprocating engines, and Superior Air Parts, Inc. (SAP) 360 series reciprocating engines. This AD requires removing from service certain SAP part numbered (P/N) cast cylinder assemblies installed in TCM, LE, and AL reciprocating engines. This AD also requires removing from service certain cast cylinder assemblies installed as original equipment in SAP reciprocating engines, or in certain overhauled or repaired SAP reciprocating engines. This AD results from nine separated SAP cylinder assemblies in TCM reciprocating engines and one in LE reciprocating engines. We are issuing this AD to prevent cylinder separation that can lead to engine failure, a possible engine compartment fire, and damage to the airplane.

DATES: This AD becomes effective March 12, 2007.

We must receive any comments on this AD by April 24, 2007.

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

FOR FURTHER INFORMATION CONTACT:

Jurgen Priester, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, Southwest Regional Headquarters, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5159; fax (817) 222–5785.

SUPPLEMENTARY INFORMATION: SAP informed the FAA on July 12, 2006, that at least nine SAP cylinder assemblies installed in TCM 470, 520, and 550 series reciprocating engines and one installed in LE 320, 360, and 540 series reciprocating engines had separated at the cylinder head-to-barrel threaded interface because SAP omitted a heat treat process step during cylinder barrel manufacture. This omission resulted in higher stresses in the cylinder head-to-barrel threaded interface, leading to fatigue cracking and cylinder head separation. The lowest time-in-service (TIS) for a cylinder assembly known to have separated from this defect is 202 hours TIS. SAP isolated this defect to a specific production lot of 1,354 barrel forgings used as original equipment on SAP O–360 engines and in SAP PMA cylinder assemblies as replacement parts for various TCM, LE, and AL engine models. This AD addresses the barrels used in SAP PMA cylinders installed in the engines listed below.

CYLINDER ASSEMBLY ELIGIBILITY

Series engines	P/N cylinder assemblies
TCM 470, 520, and 550	SA47000L–A1, SA47000L–A20P, SA47000S–A1, SA47000S–A20P, SA47000S–A21P, SA52000–A1, SA52000–A20P, SA52000–A21P, SA52000–A22P, SA52000–A23P, SA55000–A1, or SA55000–A20P.

CYLINDER ASSEMBLY ELIGIBILITY—Continued

Series engines	P/N cylinder assemblies
LE 320, 360, and 540 and AL IGO 540	SL32000W-A1, SL32000W-A20P, SL32000W-A21P, SL32000WH-A1, SL32000WH-A20P, SL32006W-A1, SL32006W-A20P, SL32006W-A21P, SL36000TW-A1, SL36000TW-A20P, SL36000TW-A21P, SL36000TW-A22P, SL36000W-A1, SL36000W-A20P, SL36000W-A21P, SL36006W-A1, SL36006W-A20P, or SL36006W-A21P.
SAP 360	SL36006W-A20P.

FAA’s Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other TCM 470, 520, and 550; LE 320, 360, and 540; AL 540, and SAP 360 series reciprocating engines of the same type design with SAP cast cylinder assemblies that have as original equipment, or have been overhauled or repaired using SAP part numbers listed in the table above. For that reason, we are issuing this AD to prevent cylinder separation which can lead to engine failure, a possible engine compartment fire, and damage to the airplane. This AD requires removing from service installed SAP cast cylinder assemblies listed in the table above, no later than 150 hours total TIS to preclude cylinder head fatigue failure and separation at the head-to-barrel threaded interface.

FAA’s Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include “AD Docket No. FAA-2006-25948; Directorate Identifier 2006-NE-32-AD” in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

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 AD. Using the search function of the DMS 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 AD, 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 DMS receives them.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a “significant regulatory action” under Executive Order 12866;
2. Is not a “significant rule” under 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 summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007-04-19 Superior Air Parts, Inc.:
Amendment 39-14951. Docket No. FAA-2006-25948; Directorate Identifier 2006-NE-32-AD.

Effective Date

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

Affected ADs

(b) None.

Applicability

(c) This AD applies to Superior Air Parts, Inc. (SAP), cast cylinder assemblies, part numbers (P/Ns): SA47000L-A1, SA47000L-A20P, SA47000S-A1, SA47000S-A20P, SA47000S-A21P, SA52000-A1, SA52000-A20P, SA52000-A21P, SA52000-A22P, SA52000-A23P, SA55000-A1, SA55000-A20P installed in Teledyne Continental Motors (TCM) 470, 520, and 550 series

reciprocating engines. These P/N cylinder assemblies may be installed in the TCM engine models listed in the following Table 1.

TABLE 1.—AFFECTED TELEDYNE CONTINENTAL ENGINE MODELS

Engine model	
O-470	-G, -K, -L, -M, -P, -R, -S, -U.
IO-470	-C, -D, -E, -F, -G, -H, -L, -M, -N, -P, -R, -S, -U, -V.
IO-520	-A, B, BA, C, CB, D, E, F, J, K, L, M, BB, MB.

TABLE 1.—AFFECTED TELEDYNE CONTINENTAL ENGINE MODELS—Continued

Engine model	
TSIO-520	-AF, B, BB, C, CE, D, DB, E, EB, G, H, J, JB, K, KB, L, LB, M, N, NB, P, R, T, UB, VB, WB.
IO-550	-A, B, C, D, E, F, L.

These engine models are installed in, but not limited to, the aircraft models listed in the following Table 2:

TABLE 2.—TELEDYNE CONTINENTAL MOTORS-RELATED AIRCRAFT MODELS

Engine model	Aircraft manufacturer	Aircraft model designation
IO-470-C	Beechcraft	J, K, M35.
IO-470-C	Navion	Navion.
IO-470-D	Cessna	310 G & H.
IO-470-D	Rockwell	200 A, B, & C.
IO-470-E	Cessna	210 & A.
IO-470-F	Bellanca	14-19-3.
IO-470-F	Cessna	185.
IO-470-H	Navion	Range Master.
IO-470-L	Beechcraft	B55 Baron.
IO-470-M	Gulfstream	500 A.
IO-470-N	Beechcraft	N & P.
IO-470-N	Beechcraft	G33.
IO-470-S	Cessna	210 B & C.
IO-470-S	Cessna	205.
IO-470-U	Cessna	310 I & J.
IO-470-V/VO	Cessna	310K, L, N, P, & Q.
IO-520-A	Cessna	210 D, E, F, G, & H.
IO-520-A	Cessna	206.
IO-520-A	Cessna	P206.
IO-520-A	Rockwell	200 D.
IO-520-B	Beechcraft	36 Bonanza.
IO-520-B	Beechcraft	A36.
IO-520-B	Navion	Range Master.
IO-520-BA	Beechcraft	A36.
IO-520-BA	Beechcraft	S & V35, V35A, V35B.
IO-520-BA	Beechcraft	C33 A.
IO-520-BA	Beechcraft	E33 A & C.
IO-520-BA	Beechcraft	F33 A & C.
IO-520-BA	Navion	Range Master.
IO-520-BB	Beechcraft	A36.
IO-520-BB	Beechcraft	V35B.
IO-520-BB	Beechcraft	F33 A.
IO-520-C & CB	Beechcraft	C55-E55 Baron.
IO-520-D	Bellanca	17-30 Viking.
IO-520-D	Cessna	A188-300 AG Truck.
IO-520-D	Cessna	185.
IO-520-E	(Cessna 310)	Exec 600.
IO-520-E	(Beech Baron)	Pres 600.
IO-520-F	Cessna	207.
IO-520-F	Cessna	U206.
IO-520-K	Bellanca	17-30A.
IO-520-L	Cessna	210 K, L, M, N, & R.
IO-520-L	Cessna	210N II.
IO-520-L	Cessna	210R.
IO-520-M	Cessna	310R.
IO-520-MB	Cessna	310R.
IO-550-A	Cessna	310 Conversion.
IO-550-B	Beechcraft	A36.
IO-550-B	(Beech Bonanza)	Foxstar.
IO-550-C	Beechcraft	58 Baron.
IO-550-D	Cessna	185/188 Conversion.
IO-550-E	Cessna	310 Conversion.
IO-550-F	Cessna	206/207 Conversion.
IO-550-L	Cessna	210 Conversion.

TABLE 2.—TELEDYNE CONTINENTAL MOTORS-RELATED AIRCRAFT MODELS—Continued

Engine model	Aircraft manufacturer	Aircraft model designation
O-470-M	Cessna	310.
O-470-G	Beechcraft	H35.
O-470-K	Bellanca	14-19-2.
O-470-K	Cessna	180 (230 HP).
O-470-L	Cessna	182.
O-470-L	Cessna	180D.
O-470-M	Cessna	310 B.
O-470-P	Navion	Navion.
O-470-R	Cessna	188-230.
O-470-R	Cessna	182.
O-470-R	Cessna	180 E-J.
O-470-S	Cessna	182.
O-470-U	Cessna	182.
O-470-U	Cessna	180 K.
TSIO-520-AF	Cessna	P210N II.
TSIO-520-B	Cessna	320D, E & F.
TSIO-520-B	Cessna	T310-Q & R.
TSIO-520-BB	Cessna	T310R.
TSIO-520-BE	Piper	PA-46-310 Malibu.
TSIO-520-C	Cessna	T210 F, G, & H.
TSIO-520-C	Cessna	TU206.
TSIO-520-C	Cessna	TP206.
TSIO-520-C&CB	Beechcraft	58 Baron.
TSIO-520-CE	Cessna	T210R.
TSIO-520-CF	Cessna	P210R.
TSIO-520-D	Beechcraft	V35, V35A, V35B-TC.
TSIO-520-E	Cessna	402, A & B.
TSIO-520-E	Cessna	401, A & B.
TSIO-520-EB	Cessna	335.
TSIO-520-G	Cessna	T207.
TSIO-520-H	Cessna	T210 J, K, & L.
TSIO-520-J	Cessna	210 J.
TSIO-520-J	Cessna	414.
TSIO-520-J	Riley Conversions	340 Super Riley.
TSIO-520-L&LB	Beechcraft	58P Baron.
TSIO-520-L&LB	Beechcraft	58TC Baron.
TSIO-520-M	Cessna	T207.
TSIO-520-M	Cessna	TU206.
TSIO-520-N	Cessna	414-II Chancellor.
TSIO-520-N	Cessna	340.
TSIO-520-NB	Cessna	414-II.
TSIO-520-NB	Cessna	340.
TSIO-520-P	Cessna	P210N.
TSIO-520-R	Cessna	T210 M.
TSIO-520-R	Cessna	T210N II.
TSIO-520-T	Cessna	T188C AG Husky.
TSIO-520-UB	Beechcraft	A36TC Bonanza.
TSIO-520-UB	Beechcraft	B36TC.
TSIO-520-VB	Cessna	402 C.
TSIO-520-WB	Beechcraft	58P Baron.
TSIO-520-WB	Beechcraft	58TC Baron.

This AD also applies to SAP, cast cylinder assemblies, P/Ns SL32000W-A1, SL32000W-A20P, SL32000W-A21P, SL32000WH-A1, SL32000WH-A20P, SL32006W-A1, SL32006W-A20P, SL32006W-A21P, SL36000TW-A1, SL36000TW-A20P, SL36000TW-A21P, SL36000TW-A22P, SL36000W-A1, SL36000W-A20P, SL36000W-A21P, SL36006W-A1, SL36006W-A20P, and SL36006W-A21P installed in Lycoming Engines (LE) 320, 360, and 540 series reciprocating engines and Avco Lycoming 540 series reciprocating engines. These P/N cylinder assemblies may be installed in the LE and AL engine models listed in the following Table 3.

TABLE 3.—AFFECTED LYCOMING ENGINES AND AVCO LYCOMING ENGINE MODELS

Engine model	
O-320	-A, -B, -C, -D, -E, H.
IO-320	-B, -D, -E.
LIO-320	-B.
AIO-320	-A, -B, -C.
AEIO-320	-D, -E.
O-360	-A, -B, -C, -D, -F, -G, -J.
IO-360	-B, -L, -M.
LO-360	-A.
AEIO-360	-B, -H.

TABLE 3.—AFFECTED LYCOMING ENGINES AND AVCO LYCOMING ENGINE MODELS—Continued

Engine model	
HO-360	-C.
HIO-360	-B.
O-540	-A, -B, -E, -F, -G, -H, -J.
IO-540	-A, -C, -D, -N, -T, -V, -W.
AEIO-540	-D.

These engine models are installed in, but not limited to, the aircraft models listed in the following Table 4:

TABLE 4.—LYCOMING ENGINES AND AVCO LYCOMING-RELATED AIRCRAFT MODELS

Engine model	Aircraft manufacturer	Aircraft model designation
O-320-A	Mooney Aircraft	Mark 20A.
O-320-A1A	Piper Aircraft	PA-23-150 Apache.
O-320-A1A	Piper Aircraft	PA-22-150 Tri-Pacer.
O-320-A1A	Piper Aircraft	PA-22S-150 Tri-Pacer.
O-320-A1A	Piper Aircraft	PA-25 Pawnee.
O-320-A1A	Doyn Aircraft	Doyn-Cessna 170,170A,170B.
O-320-A1A	Dinfia	Ranquel 1A-46.
O-320-A1A	Simmering-Graz Pauker	Flamingo SGP-M-222.
O-320-A1A	Aviamilano	Scricciolo P-19.
O-320-A1A	Vos Helicopter Co	Spring Bok.
O-320-A1A	Mooney Aircraft	Mark 20A.
O-320-A1B	Piper Aircraft	PA-22-150 Tri-Pacer.
O-320-A1B	Piper Aircraft	PA-22S-150 Tri-Pacer.
O-320-A1B	Piper Aircraft	PA-23 Apache.
O-320-A1B	Doyn Aircraft	Doyn-Cessna 170,170A,170B.
O-320-A1B	S.O.C.A.T.A	Horizon (Gardan).
O-320-A2A	Piper Aircraft	PA-22-150.
O-320-A2A	Piper Aircraft	PA-22S-150.
O-320-A2A	Piper Aircraft	Agriculture PA-18A-150.
O-320-A2A	Piper Aircraft	Super Cub PA-18-150.
O-320-A2A	Piper Aircraft	Caribbean PA-22-150.
O-320-A2A	Piper Aircraft	PA-25 Pawnee.
O-320-A2A	Lake Aircraft	Colonial C1.
O-320-A2A	Intermountain Mfg. Co	Call Air Texas A-5, A-5T.
O-320-A2A	Rawdon Bros	Rawdon T-1, T-15, T-15D.
O-320-A2A	Shinn Engineering	Shinn 2150-A.
O-320-A2A	Dinfia	Ranquel 1A-46.
O-320-A2A	Neiva	1PD-5802.
O-320-A2A	Sud	Gardan-Horizon (GY-80).
O-320-A2A	La Verda	Falco F8L Series II, America.
O-320-A2A	Malmo	Vipan MF1-10.
O-320-A2A	Kingsford Smith	Autocrat SCRM-153.
O-320-A2B	Aero Commander	100.
O-320-A2B	Piper Aircraft	PA-22-150.
O-320-A2B	Piper Aircraft	PA-22S-150.
O-320-A2B	Piper Aircraft	Cherokee PA-28-150.
O-320-A2B	Piper Aircraft	Super Cub PA-18-150.
O-320-A2B	Champion Aircraft	Challenger 7GCA, 7GCB, 7KC.
O-320-A2B	Champion Aircraft	Citabria 7GCAA, 7GCRC.
O-320-A2B	Champion Aircraft	Agriculture 7GCBA.
O-320-A2B	Beagle	Pup 150.
O-320-A2B	Arctic	Interstate S1B2.
O-320-A2B	Robinson Helicopters	R-22.
O-320-A2C	Robinson Helicopters	R-22.
O-320-A2C	Varga	Kachina 2150a.
O-320-A2C	Cicare	Cicare AG.
O-320-A2D	Bellanca Aircraft	Citabria 150 (7GCAA).
O-320-A2D	Bellanca Aircraft	Citabria 150S (7GCBC).
O-320-A2D	Bellanca	Citabria 150S (7G(HU)).
O-320-A2F	Cessna Aircraft	177A.
O-320-A3A	Piper Aircraft	Apache PA-23.
O-320-A3A	Doyn Aircraft	Doyn-Cessna 170, 170A, 170B.
O-320-A3A	Corben-Fettes	Globe Special (Globe GC-1B).
O-320-A3B	Piper Aircraft	Apache PA-23.
O-320-A3B	Doyn Aircraft	Doyn-Cessna 170, 170A, 170B.
O-320-A3B	Teal II	TSC 1A2.
O-320-B1A	Piper Aircraft	Apache PA-23-160.
O-320-B1A	Doyn Aircraft	Doyn-Cessna 170, 170A, 170B.
O-320-B1A	Malmo	Vipan MF1-10.
O-320-B1B	Piper Aircraft	Apache PA-23-160.
O-320-B1B	Doyn Aircraft	Doyn-Cessna 170, 170A, 170B.
O-320-B2A	Piper Aircraft	PA-22-160.
O-320-B2A	Piper Aircraft	PA-22S-160.
O-320-B2B	Piper Aircraft	PA-22-160.
O-320-B2B	Piper Aircraft	PA-22S-160.
O-320-B2B	Beagle	Airedale D5-160.
O-320-B2B	Fuji-Heavy Industries	Fuji F-200.
O-320-B2B	Uirapuru	Aerotec 122.
O-320-B2C	Robinson Helicopters	R22-HP, Alpha, Beta.
O-320-B2D	Maule	MX-7-160.
O-320-B2E	Lycon.	
O-320-B3A	Piper Aircraft	Apache PA-23-160.

TABLE 4.—LYCOMING ENGINES AND AVCO LYCOMING-RELATED AIRCRAFT MODELS—Continued

Engine model	Aircraft manufacturer	Aircraft model designation
O-320-B3A	Doyn Aircraft	Doyn-Cessna 170, 170A, 170B.
O-320-B3B	Piper Aircraft	PA-23-160 Apache.
O-320-B3B	Doyn Aircraft	Doyn-Cessna 170, 170A, 170B.
O-320-B3B	Sud	Gardan (GY80-160).
O-320-C1A	Piper Aircraft	Apache PA-23-160.
O-320-C1A	Riley Aircraft	Rayjay (Apache).
O-320-C1B	Piper Aircraft	Apache PA-23-160.
O-320-C3A	Piper Aircraft	Apache PA-23-160.
O-320-C3B	Piper Aircraft	Apache PA-23-160.
O-320-D1A	Sud	Gardan (GY80).
O-320-D1A	Gyroflug	Speed Cancard.
O-320-D1A	Grob	G115.
O-320-D1D	Gulfstream	GA-7.
O-320-D1F	Slingsby	T67 Firefly.
O-320-D2A	Piper Aircraft	Cherokee PA-28S-160.
O-320-D2A	Robin	Major DR400-140B.
O-320-D2A	Robin	Chevalier DR-360, R-3140.
O-320-D2A	S.O.C.A.T.A	Tampico TB9.
O-320-D2A	Slingsby	T67C Firefly.
O-320-D2A	Daetwyler	MD-3-160.
O-320-D2A	Nash Aircraft Ltd	Petrel.
O-320-D2A	Aviolight	P66D Delta.
O-320-D2A	General Avia	Pinguino.
O-320-D2B	Beechcraft	Musketeer A23.
O-320-D2B	Piper Aircraft	Cherokee PA-28-160.
O-320-D2J	Cessna	Skyhawk 172 P.
O-320-D3G	Piper Aircraft	Cadet PA-28-161.
O-320-D3G	Piper Aircraft	Warrior II.
O-320-E1A	Grob	G115.
O-320-E1C	M.B.B (Messerschmitt-Boelkow-Blohm)	Monsun (BO-209-B).
O-320-E1F	M.B.B	Monsun (BO-209-B).
O-320-E2A	Piper Aircraft	Cherokee PA-28-140.
O-320-E2A	Piper Aircraft	Cherokee PA-28-150.
O-320-E2A	Robin	Major (DR-340).
O-320-E2A	Robin	Sitar.
O-320-E2A	Robin	Bagheera (GY-100-135).
O-320-E2A	S.O.C.A.T.A	Super Rallye (MS-886).
O-320-E2A	S.O.C.A.T.A	Rallye Commodore (MS-892).
O-320-E2A	Siai-Marchetti	S-202.
O-320-E2A	F.F.A	Bravo (AS-202/15).
O-320-E2A	Partenavia	Oscar (P66B).
O-320-E2A	Partenavia	Bucker (131 APM).
O-320-E2A	Aeromot	Paulistina P-56.
O-320-E2A	Pezetel	Kolibri 150.
O-320-E2C	Beechcraft	Musketeer (B19).
O-320-E2C	Beechcraft	Musketeer III (M-23111).
O-320-E2C	M.B.B	Monsun (BO-209-B).
O-320-E2D	Beechcraft	B19 Sport.
O-320-E2D	Cessna	177.
O-320-E2D	Cessna	172 I-M.
O-320-E2D	Piper Aircraft	PA-28-151.
O-320-E2D	Piper Aircraft	PA-28-140.
O-320-E2D	Cessna	Cardinal (172.1, 177).
O-320-E2F	M.B.B	Monsun (BO-209-B).
O-320-E2F	M.B.B	Wassmer Pacific (WA-5 1).
O-320-E2G	Gulfstream	AA5 Traveler.
O-320-E2G	Gulfstream	AA5A Cheetah.
O-320-E3D	Beechcraft	B19 Sport.
O-320-E3D	Piper Aircraft	Cherokee (140).
O-320-H2AD	Cessna	Skyhawk 172 N.
O-320-H2AD	Partenavia	P-66C.
O-320A2C	Varga	Kachina 2150.
IO-320-B2A	Piper Aircraft	Twin Comanche (PA-30).
IO-320-B1C	Hi.	
IO-320-B1C	Shear.	
IO-320-B1C	Wing.	
IO-320-B1D	Ted Smith Aircraft	Aerostar.
IO-320-D1A	M.B.B	Monsun (BO-209-C).
IO-320-D1B	M.B.B	Monsun (BO-209-C).
IO-320-E1A	Champion	KCAB.
IO-320-E1A	M.B.B	Monsun (BO-209-C).
IO-320-E1B	Bellanca Aircraft.	

TABLE 4.—LYCOMING ENGINES AND AVCO LYCOMING-RELATED AIRCRAFT MODELS—Continued

Engine model	Aircraft manufacturer	Aircraft model designation
IO-320-E2A	Champion	7 KCAB.
IO-320-E2A	Champion Aircraft	Citabria.
IO-320-E2B	Bellanca Aircraft.	
IO/LIO-320-B1A	Piper Aircraft	PA-30 Comanche (2).
IO/LIO-320-B1A	Piper Aircraft	Twin Comanche (PA-39).
AIO-320-B1B	M.B.B	Monsun (BO-209-C).
AEIO-320-D1B	Slingsby	T67M Firefly.
AEIO-320-D2B	Hindustan Aeronautics Ltd	HT-2.
AEIO-320-E1A	Bellanca Aircraft.	
AEIO-320-E1A	Champion Aircraft.	
AEIO-320-E1B	Bellanca Aircraft.	
AEIO-320-E1B	Champion Aircraft	Decathlon (8KCAB-CS).
AEIO-320-E2B	Bellanca Aircraft.	
AEIO-320-E2B	Champion Aircraft	Decathlon (8KCAB).
O-320-A1A	Riley Aircraft	Riley Twin.
O-360-A1A	Beechcraft	Travel Air (95, B-95).
O-360-A1A	Piper Aircraft	Comanche (PA-24).
O-360-A1A	Intermountain Mfg. Co	Call Air (A-6).
O-360-A1A	Lake Aircraft	Colonial (C-2, LA-4, 4A or 4P).
O-360-A1A	Doyn Aircraft	Doyn-Cessna (170B, 172, 172A, 172B).
O-360-A1A	Mooney Aircraft	Mark "20B" (M-20B).
O-360-A1A	Earl Horton	Pawnee (Piper PA-25).
O-360-A1A	Dinfia	Ranquel (IA-51).
O-360-A1A	Neiva	(IPD-5901).
O-360-A1A	Regente	(N-591).
O-360-A1A	Wassmer	Super 4 (WA-50A).
O-360-A1A	Wassmer	Sancy (WA-40).
O-360-A1A	Wassmer	Baladou (WA-40).
O-360-A1A	Wassmer	Pariou (WA-40).
O-360-A1A	Sud	Gardan (GY-180).
O-360-A1A	Bolkow	(207).
O-360-A1A	Partenavia	Oscar (P-66).
O-360-A1A	Siai-Marchetti	(S-205).
O-360-A1A	Procaer	Picchio (F-15-A).
O-360-A1A	S.A.A.B	Safir (91-D).
O-360-A1A	Malmo	Vipan (MF-10B).
O-360-A1A	Aero Boero	AB-180.
O-360-A1A	Beagle	Airedale (A-109).
O-360-A1A	DeHavilland	Drover (DHA-3MK3).
O-360-A1A	Kingsford-Smith	Bushmaster (J5-6).
O-360-A1A	Aero Engine Service Ltd	Victa (R-2).
O-360-A1AD	S.O.C.A.T.A	Tabago TB-10.
O-360-A1D	Piper Aircraft	Comanche (PA-24).
O-360-A1D	Lake Aircraft	Colonial (LA-4, 4A or 4P).
O-360-A1D	Doyn Aircraft	Doyn-Beech (Beech 95).
O-360-A1D	Mooney Aircraft	Master 21 (M-20E).
O-360-A1D	Mooney Aircraft	Mark 20B, 20D, (M20B, M20C).
O-360-A1D	Mooney Aircraft	Mooney Statesman (M-20G).
O-360-A1D	Dinfia	Querandi (IA-45).
O-360-A1D	Wassmer	(WA-50).
O-360-A1D	Malmo	Vipan (MFI-10).
O-360-A1D	Cessna Aircraft	Skyhawk.
O-360-A1D	Doyn Aircraft	Doyn-Piper PA-23-160.
O-360-A1F6	Cessna Aircraft	Cardinal.
O-360-A1F6D	Cessna Aircraft	Cardinal 177.
O-360-A1F6D	Teal III	TSC (1A3).
O-360-A1G6	Aero Commander.	
O-360-A1G6D	Beech Aircraft	Duchess 76.
O-360-A1H6	Piper Aircraft	Seminole (PA-44).
O-360-A1LD	Wassmer	Europa WA-52.
O-360-A1P	Aviat.	
O-360-A1P	Husky.	
O-360-A2A	Center Est Aeronautique	Regente (DR-253).
O-360-A2A	S.O.C.A.T.A	Rallye Commodore (MS-893).
O-360-A2A	Societe Aeronautique Normande	Mousquetaire (D-140).
O-360-A2A	Bolkow	Klemm (KI-1 07C).
O-360-A2A	Partenavia	Oscar (P-66).
O-360-A2A	Beagle	Husky (D5-180) (J1-U).
O-360-A2D	Piper Aircraft	Comanche PA-24.
O-360-A2D	Piper Aircraft	Cherokee C PA-28-180.
O-360-A2D	Mooney Aircraft	Master 21 (M-20D).
O-360-A2D	Mooney Aircraft	Mark 21 (M-20E).

TABLE 4.—LYCOMING ENGINES AND AVCO LYCOMING-RELATED AIRCRAFT MODELS—Continued

Engine model	Aircraft manufacturer	Aircraft model designation
O-360-A2E	Std. Helicopter.	
O-360-A2F	Aero Commander	Lark (100).
O-360-A2F	Cessna Aircraft	Cardinal.
O-360-A2G	Beech Aircraft	Sport.
O-360-A3A	C.A.A.R.P.S.A.N	(M-23111).
O-360-A3A	Societe Aeronautique Normande	Jodel (D-140C).
O-360-A3A	Robin	Regent (DR400/180).
O-360-A3A	Robin	Remorqueur (DR400/180R).
O-360-A3A	Robin	R-3170.
O-360-A3A	S.O.C.A.T.A	Rallye 180GT.
O-360-A3A	S.O.C.A.T.A	Sportavia Sportsman (RS-180).
O-360-A3A	Norman Aerospace Co	NAC-1 Freelance.
O-360-A3A	Nash Aircraft Ltd	Petre.
O-360-A3AD	S.O.C.A.T.A	TB-10.
O-360-A3AD	Robin	Aiglon (R-1 180T).
O-360-A4A	Piper Aircraft	Cherokee "D" PA-28-180.
O-360-A4D	Varga	Kachina.
O-360-A4G	Beech Aircraft	Musketeer Custom III.
O-360-A4K	Grumman American	Tiger.
O-360-A4K	Beech Aircraft	Sundowner 180.
O-360-A4M	Piper Aircraft	Archer II PA-28-18.
O-360-A4M	Valmet	PIK-23.
O-360-A4N	Cessna Aircraft	172 (Optional).
O-360-A4P	Penn Yan	Super Cub Conversion.
O-360-A5AD	C. Itoh and Co	Fuji FA-200.
O-360-B2C	Seabird Aviation	SB7L.
O-360-C1A	Intermountain Mfg. Co	Call Air (A-6).
O-360-C1E	Bellanca Aircraft	Scout (8GCBC-CS).
O-360-C1F	Maule	Star Rocket MX-7-180.
O-360-C1G	Christen	Husky (A-1).
O-360-C2B	Hughes Tool Co	(269A).
O-360-C2D	Hughes Tool Co	(269A).
O-360-C2E	Hughes Tool Co	YHO-2HU Military.
O-360-C2E	Bellanca Aircraft	Scout 8GCBC FP.
O-360-C4F	Maule	MX-7-180A.
O-360-C4P	Penn Van	Super Cub Conversion.
O-360-F1A6	Cessna Aircraft	Cutlass RG.
O-360-J2A	Robinson	R22.
IO-360-B1A	Beech Aircraft	Travel-Air (B-95A).
IO-360-B1A	Doyn Aircraft	Doyn-Piper PA-23-200.
IO-360-B1B	Beech Aircraft	Travel-Air (B-95B).
IO-360-B1B	Doyn Aircraft	Doyn-Piper PA-23-200.
IO-360-B1B	Fuji	FA-200.
IO-360-B1D	United Consultants	See-Bee.
IO-360-B1E	Piper Aircraft	Arrow PA-28-180R.
IO-360-B1F	Utva	75.
IO-360-B2E	C.A.A.R.P	C.A.P. (10).
IO-360-B1F6	Great Lakes	Trainer.
IO-360-B1G6	American Blimp	Spector 42.
IO-360-B2F6	Great Lakes	Trainer.
LO-360-A1 G6D	Beech Aircraft	Duchess.
LO-360-A1H6	Piper Aircraft	Seminole (PA-44).
IO-360-E1A	T.R. Smith Aircraft	Aerostar.
IO-360-L2A	Cessna Aircraft	Skyhawk C-172.
IO-360-M1A	Diamond Aircraft	DA-40.
IO-360-M1B	Vans Aircraft	RV6, RV7, RV8.
IO-360-M1B	Lancair	360.
AIO-360-B1B	Moravan	Zim (Z-526-L).
AEIO-360-B1G6	Great Lakes.	
AEIO-360-B2F	Mundry	CAP-10.
AEIO-360-B4A	Pitts	S-1S.
AEIO-360-H1A	Bellanca Aircraft	Super Decathlon (8KCAB-180).
AEIO-360-H1B	American Champion	Super Decathlon.
HO-360-B1A	Hughes Tool Co	269A.
HO-360-B1B	Hughes Tool Co	269A.
HO-360-C1A	Schweizer	300C.
HIO-360-A1A	Hughes Tool Co	300.
H1O-360-A1B	Silvercraft.	
HIO-360-B1A	Hughes Tool Co	Military 269-A-1.
HIO-360-B1B	Hughes Tool Co	269A.
HIO-360-D1A	Hughes Tool Co	269C, 300C.
HIO-360-D1A	Schweizer	300C.

TABLE 4.—LYCOMING ENGINES AND AVCO LYCOMING-RELATED AIRCRAFT MODELS—Continued

Engine model	Aircraft manufacturer	Aircraft model designation
HIO-360-E1AD	Enstrom Helicopter	F28C.
HIO-360-E1BD	Enstrom Helicopter	F28C.
HIO-360-F1AD	Enstrom Helicopter	Faicon F28F.
HIO-360-F1AD	Enstrom Helicopter	Shark 280FX.
HIO-360-F1AD	Enstrom Helicopter	Sentine F28F-P.
HIO-360-G1A	Schweizer	CB.
LHIO-360-C1A	Silvercraft	SH-4 Helicopter.
LHIO-360-C1B	Silvercraft	SH-3 Helicopter.
O-540-AIA	Rhein-Flugzeugbau	RF-1.
O-540-AIA5	Piper Aircraft	Comanche PA-24-150.
O-540-AIA5	Helio	Military H-250.
O-540-AIA5	Yoeman Aviation	YA-1.
O-540-A1B5	Piper Aircraft	Aztec PA-23-250.
O-540-A1B5	Piper Aircraft	Comanche PA-24-250.
O-540-A1C5	Piper Aircraft	Comanche PA-24-250.
O-540-A1D	Found Bros	FBA-2C.
O-540-A1D	Dornier	DO-28-B1.
O-540-AID5	Piper Aircraft	Aztec PA-23-250.
O-540-AID5	Piper Aircraft	Comanche PA-24-250.
O-540-AID5	Piper Aircraft	Military Aztec U-1 1A.
O-540-AID5	Dornier	DO-28.
O-540-A2B	Aero Commander	500.
O-540-A2B	Mid-States Mfg. Co	Twin Courier 11-500, U-5.
O-540-A3D5	Piper Aircraft	Navy Aztec PA-23-250.
O-540-B1A5	Piper Aircraft	Apache PA-23-235.
O-540-B1B5	Piper Aircraft	Cherokee PA-24-250.
O-540-B1B5	Doyn Aircraft	Doyn-Piper PA-24-250.
O-540-B1D5	Wassmer	WA-421.
O-540-B2B5	Piper Aircraft	Pawnee PA-24-235.
O-540-B2B5	Piper Aircraft	Cherokee PA-28-235.
O-540-B2B5	Piper Aircraft	Aztec PA-23-235.
O-540-B2B5	Intermountain Mfg. Co	Call Air A-9.
O-540-B2B5	Rawdon Bros.	Rawdon T-1.
O-540-B2B5	S.O.C.A.T.A	Rallye 235CA.
O-540-B2C5	Piper Aircraft	Pawnee PA-24-235.
O-540-B4B5	Piper Aircraft	Cherokee PA-28-235.
O-540-B4B5	Embraer	Corioca EMB-710.
O-540-B4B5	S.O.C.A.T.A	Rallye 235GT.
O-540-B4B5	S.O.C.A.T.A	Rallye 235C.
O-540-B4B5	Maule	Star Rocket MX-7-235.
O-540-B4B5	Maule	Super Rocket M-6-235.
O-540-B4B5	Maule	Super Std. Rocket M-7-235.
O-540-E4A5	Piper Aircraft	Comanche PA-24-260.
O-540-E4A5	Aviamilano	Flamingo F-250.
O-540-E4A5	Siai-Marcobetti	SF-260, SF-208.
O-540-E4B5	Britten-Norman	BN-2.
O-540-E4B5	Piper Aircraft	Cherokee Six PA-32-260.
O-540-E4C5	Pilatus Britten-Norman	Islander BN-2A-26.
O-540-E4C5	Pilatus Britten-Norman	Islander BN-2A-27.
O-540-E4C5	Pilatus Britten-Norman	Islander II BN-2B-26.
O-540-E4C5	Pilatus Britten-Norman	Islander BN-2A-2 1.
O-540-E4C5	Pilatus Britten-Norman	Trislander BN-2A-Mark 111-2.
O-540-F1B5	Omega Aircraft	BS-12D1.
O-540-F1B5	Robinson	R-44.
O-540-G1A5	Piper Aircraft	Pawnee PA-25-260.
O-540-H1B5D	Aero Boero	260.
O-540-H2A5	Embraer	Impanema "AG".
O-540-H2A5	Gippsland	GA-200.
O-540-H2B5D	Aero Boero	260.
O-540-J1A5D	Maule	Star Rocket MX-7-235.
O-540-J1A5D	Maule	Super Rocket M-6-235.
O-540-J1A5D	Maule	Super Std. Rocket M-7-235.
O-540-J3A5	Robin	R-3000/235.
O-540-J3A5D	Piper Aircraft	Dakota PA-28-236.
O-540-J3C5D	Cessna Aircraft	Skylane RG.
IO-540-A1A5	Doyn Aircraft	Doyn-Piper PA-23-250.
IO-540-A1A5	Riley Aircraft	Rocket-Cessna 310.
IO-540-A1A5	Dornier	DO-8-B 1.
IO-540-A1A5	Siai-Marchetti.	
IO-540-C1B5	Piper Aircraft	Aztec B PA-23-250.
IO-540-C1B5	Piper Aircraft	Comanche PA-24-250.
IO-540-C1C5	Riley Aircraft	Turbo-Rocket.

TABLE 4.—LYCOMING ENGINES AND AVCO LYCOMING-RELATED AIRCRAFT MODELS—Continued

Engine model	Aircraft manufacturer	Aircraft model designation
IO-540-C4B5	Piper Aircraft	Aztec C PA-23-250.
IO-540-C4B5	Piper Aircraft	Aztec F.
IO-540-C4B5	Wassmer	WA4-2 1.
IO-540-C4B5	Avions Pierre Robin	HR 100/250.
IO-540-C4B5	Bellanca Aircraft	Aries T-250.
IO-540-C4B5	Aerofab	Renegade 250.
IO-540-C4D5	S.O.C.A.T.A	TB-20.
IO-540-C4DSD	S.O.C.A.T.A	Trinidad TB-20.
IO-540-D4A5	Piper Aircraft	Comanche PA-24-260.
IO-540-D4A5	Siai-Marchetti	SF-260.
IO-540-D4B5	Cerva	CE-43 Guepard.
IO-540-E1A5	Aero Commander	500-E.
IO-540-E1B5	Aero Commander	500-U.
IO-540-E1B5	Shrike	500-S.
IO-540-E1B5	Poeschel	P-300.
IO-540-G1A5	Doyn Aircraft	Doyn-Piper PA-23-250.
IO-540-G1A5	Riley Aircraft	Turbo-Aztec.
IO-540-G1A5	DeHavilland	Heron Conversion.
IO-540-G1B5	T.R. Smith Aircraft	Aerostar 600.
IO-540-G1B5	Found Bros	Centennial 100.
IO-540-G1C5	Intermountain Mfg. Co	Call Air 1AR821.
IO-540-G1DS	Intermountain Mfg. Co	IAR-822, IAR-826, IAR-823.
IO-540-G1F5	Bellanca Aircraft.	
IO-540-N IA5	Piper Aircraft	Comanche 260.
IO-540-T4A5D	General Aviation	Model 114.
IO-540-T4B5	Commander	1 14B.
IO-540-T4B5D	Rockwell	114.
IO-540-T4C5D	Lake Aircraft	Seawolf.
IO-540-W1A5	Maule	MX-7-235, MT-7-235, M7235.
IO-540-W1A5D	Maule	Star Rocket MX-7-235.
IO-540-W1A5D	Maule	Super Rocket M-6-235.
IO-540-W1A5D	Maule	Super Std. Rocket M-7-235.
IO-540-W3A5D	Schweizer	Power Glider.
IO-540-AB1A5	Cessna Aircraft	Skylane C-182.
AEIO-540-D4A5	Christen	Pitts S-2S, S-2B.
AEIO-540-D4A5	Siai-Marchetti	SF-260.
AEIO-540-D4A5	H.A.L	HPT-32.
AEIO-540-D4A5	Slingsby	Firefly T3A
AEIO-540-D4B5	Moravan	Zlin-50L
AEIO-540-D4B5	H.A.L	HPT-32.
AEIO-540-D4D5	Burkhart Grob	Grob G, 1 15T Aero.

These engine models are known to be installed in the aircraft models listed in the following Table 5:

TABLE 5.—SUPERIOR AIR PARTS, INC.-RELATED AIRCRAFT MODELS

Engine model	Aircraft manufacturer	Aircraft model designation
O-360-A3A2	American Champion	7GCBC & 7GCAA

Unsafe Condition

(d) This AD results from the discovery of nine separated SAP cylinder assemblies installed in TCM 470, 520, and 550 series reciprocating engines and one separated SAP cylinder assembly installed in LE 320, 360, and 540 series reciprocating engines. We are issuing this AD to prevent cylinder separation that can lead to engine failure, a possible engine compartment fire, and damage to the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within

the compliance times specified unless the actions have already been done.

Determining Which Cast Cylinder Assemblies Are Installed

(f) If aircraft engine records do not list the P/N of the cylinder installed during engine overhaul or repair, visually inspect the cylinders. The affected SAP cylinder head flanges are marked: SA47000L-A1, SA47000L-A20P, SA47000S-A1, SA47000S-A20P, SA47000S-A21P, SA52000-A1, SA52000-A20P, SA52000-A21P, SA52000-A22P, SA52000-A23P, SA55000-A1, or SA55000-A20P or SL32000W-A1, SL32000W-A20P, SL32000W-A21P,

SL32000WH-A1, SL32000WH-A20P, SL32006W-A1, SL32006W-A20P, SL32006W-A21P, SL36000TW-A1, SL36000TW-A20P, SL36000TW-A21P, SL36000TW-A22P, SL36000W-A1, SL36000W-A20P, SL36000W-A21P, SL36006W-A1, SL36006W-A20P, or SL36006W-A21P.

Cylinder Assembly Removal

(g) Remove all cylinder assemblies with a serial number of 47LE053559 through 47LF053643, or 47SE054212 through 47SF054251, or 52D0531708 through 52H0532197, or 55E05223 through 55G05289, or 32WE059006 through

32WF059067, or 32WHE05379 through 32WHE05392, or 326WF055517 through 326WF055532, or 36TWF05430 through 36TWG05453, or 36WF058058 through 36WJ058182, or 366WE056944 through 366WL058131 no later than 150 hours total time-in-service (TIS) to preclude cylinder head fatigue failure and separation at the head-to-barrel threaded interface.

(h) For cylinder assemblies with more than 150 hours total TIS on the effective date of this AD, a 10 hour TIS extension is permitted for the purpose of flying the aircraft to a location where maintenance action can be done to meet the requirements of this AD.

(i) After the effective date of this AD, do not install any cylinder assemblies with P/Ns SA47000L-A1, SA47000L-A20P, SA47000S-A1, SA47000S-A20P, SA47000S-A21P, SA52000-A1, SA52000-A20P, SA52000-A21P, SA52000-A22P, SA52000-A23P, SA55000-A1, or SA55000-A20P, or SL32000W-A1, SL32000W-A20P, SL32000W-A21P, SL32000WH-A1, SL32000WH-A20P, SL32006W-A1, SL32006W-A20P, SL32006W-A21P, SL36000TW-A1, SL36000TW-A20P, SL36000TW-A21P, SL36000TW-A22P, SL36000W-A1, SL36000W-A20P, SL36000W-A21P, SL36006W-A1, SL36006W-A20P, or SL36006W-A21P, with a serial number of 47LE053559 through 47LF053643, or 47SE054212 through 47SF054251, or 52D0531708 through 52H0532197, or 55E05223 through 55G05289, or 32WE059006 through 32WF059067, or 32WHE05379 through 32WHE05392, or 326WF055517 through 326WF055532, or 36TWF05430 through 36TWG05453, or 36WF058058 through 36WJ058182, or 366WE056944 through 366WL058131 into any engine.

Alternative Methods of Compliance

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

Special Flight Permits

(k) For aircraft with engines that have between 140 hours and 150 hours TIS only, special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be done. Special flight permits may not be issued for aircraft that have utilized the provisions of paragraph (h) of this AD.

Related Information

(l) Superior Air Parts, Inc. Mandatory Service Bulletin B06-01, Rev. E, dated January 24, 2007, contains information related to the subject of this AD.

(m) Contact Jurgen Priester, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, Southwest Regional Headquarters, 2601 Meacham Blvd., Fort Worth, Texas 76137; e-mail: jurgen.priester@faa.gov; telephone (817) 222-5159; fax (817) 222-5785 for more information about this AD.

Material Incorporated by Reference

(n) None.

Issued in Burlington, Massachusetts, on February 13, 2007.

Peter A. White,

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

[FR Doc. E7-2985 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2005-20381; Airspace Docket No. 05-ANM-3]

Revision of Class E Airspace; Gillette, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will revise the Class E airspace at Gillette, WY. Additional Class E airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Gillette-Campbell County Airport. This will improve the safety of Instrument Flight Rules (IFR) aircraft executing the new RNAV GPS SIAP at Gillette-Campbell County Airport, Gillette, WY.

DATES: *Effective Date:* 0901 UTC, May 10, 2007. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Ed Haeseker, Federal Aviation Administration, Western Service Area, System Support, 1601 Lind Avenue SW., Renton, WA, 98055-4056; telephone (425) 227-2527.

SUPPLEMENTARY INFORMATION:

History

On August 11, 2006, the FAA published in the **Federal Register** a notice of proposed rulemaking to revise Class E airspace at Gillette, WY, (71 FR 46133). This action would improve the safety of Instrument Flight Rules (IFR) aircraft executing this new RNAV GPS approach procedure at Gillette-Campbell County Airport, Gillette WY. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9P dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace at Gillette, WY. Additional controlled airspace is necessary to accommodate IFR aircraft executing a new RNAV (GPS) approach procedure at Gillette-Campbell Airport, Gillette WY.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR part 71.1 of the Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

Paragraph 6005. Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM WY E5 Gillette, WY [Revised]

Gillette-Campbell County Airport, WY
(Lat. 44°20'56" N., long. 105°32'22" W.)
Gillette VOR/DME
(Lat. 44°20'52" N., long. 105°32'37" W.)

That airspace extending upward from 700 feet above the surface of the earth within 6.1 miles east and 8.3 miles west of the Gillette VOR/DME 176° and 356° radials extending from 15.3 miles south to 16.1 miles north of the VOR/DME; that airspace extending upward from 1200 feet above the surface of the earth bounded by a line beginning at lat. 44°47'00" N., long. 106°22'32" W.; to lat. 44°23'00" N., long. 106°22'32" W.; to lat. 44°16'00" N., long. 105°58'02" W.; to lat. 44°05'00" N., long. 106°00'02" W.; to lat. 43°49'15" N., long. 106°09'32" W.; to lat. 43°39'00" N., long. 106°00'02" W.; to lat. 43°39'00" N., long. 105°09'02" W.; to lat. 44°08'30" N., long. 105°09'00" W.; to lat. 44°01'00" N., long. 104°51'02" W.; to lat. 44°30'00" N., long. 104°41'02" W.; to lat. 44°39'00" N., long. 105°20'00" W.; to lat. 44°55'00" N., long. 105°20'00" W.; to lat. 44°55'00" N., long. 105°55'00" W.; to lat. 44°43'30" N., long. 105°55'00" W.; thence to point of beginning.

* * * * *

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

Clark Desing,

Manager, System Support, Western Service Area.

[FR Doc. E7-3049 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2006-24826; Airspace Docket No. 06-ANM-3]

Establishment of Class E Airspace; Nucla, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will establish the Class E airspace at Nucla, CO. Additional Class E airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Hopkins Field. This will improve the safety of Instrument Flight Rules (IFR) aircraft executing the new RNAV GPS SIAP at Hopkins Field, Nucla, CO.

DATES: *Effective Date:* 0901 UTC, May 10, 2007. The Director of the Federal

Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Ed Haeseker, Federal Aviation Administration, Western Service Area, System Support, 1601 Lind Avenue, SW., Renton, WA, 98057; telephone (425) 917-6714.

SUPPLEMENTARY INFORMATION:

History

On October 20, 2006, the FAA published in the *Federal Register* a notice of proposed rulemaking to establish Class E airspace at Nucla, CO (71 FR 61922). This action would improve the safety of Instrument Flight Rules (IFR) aircraft executing this new RNAV GPS approach procedure at Hopkins Field, Nucla, CO. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9P dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace at Nucla, CO. Additional controlled airspace is necessary to accommodate IFR aircraft executing a new RNAV (GPS) approach procedure at Hopkins Field, Nucla, CO.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR part 71.1 of the Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

Paragraph 6005. Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM CO E5 Nucla, CO [New]

Hopkins Field, CO
(Lat. 38°14'20" N., long. 108°33'48" W.)

That airspace extending upward from 700 feet above the surface within a 6.0-mile radius of Hopkins Field and within 4 miles each side of the 137° bearing to Hopkins Field extending from 6.0 miles northwest of Hopkins Field to the 6.0-mile radius; that airspace extending upward from 1,200 feet above the surface beginning at lat. 38°45'00" N., long. 109°00'00" W.; to lat. 38°30'00" N., long. 108°30'00" W.; to CONES VOR/DME; to DOVE CREEK VORTAC; to lat. 38°30'00" N., long. 109°10'00" W.; to point of beginning.

* * * * *

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

Clark Desing,

Manager, System Support, Western Service Area.

[FR Doc. E7-3052 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 30538; Amdt. No. 466]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the

required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: *Effective Date:* 0901 UTC, March 15, 2007.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS-420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954-4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are

necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation, as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC on February 15, 2007.

James J. Ballough,
Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, January 18, 2007.

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES CHANGEOVER POINTS—AMENDMENT 466

[Effective date March 15, 2007]

From	To	MEA
§ 95.1001 Direct Routes—U.S.		
COLOR ROUTES:		
§ 95.10 Amber Federal Airway A9 is Amended to Read in Part		
EVANSVILLE, AK NDB *9100—MOCA.	BROWERVILLE, AK NDB	*10000
§ 95.6001 Victor Routes—U.S.		
§ 95.6002 VOR Federal Airway V2 is Amended to Read in Part		
SALEM, MI VORTAC DELOW, MI FIX *2800—MOCA.	DELOW, MI FIX U.S. CANADIAN BORDER	3000 *4000
§ 95.6014 VOR Federal Airway V14 is Amended to Read in Part		
FINDLAY, OH VORTAC *2400—MOCA.	OBRLN, OH FIX	*3500
OBRLN, OH FIX *2400—MOCA.	DRYER, OH VOR/DME	*3000
95.6020 VOR Federal Airway V20 is Amended to Read in Part		
HOBBY, TX VOR/DME	BEAUMONT, TX VOR/DME	2100

REVISIONS TO IFR ALTITUDES CHANGEOVER POINTS—AMENDMENT 466—Continued

[Effective date March 15, 2007]

From	To	MEA
§ 95.6026 VOR Federal Airway V26 is Amended to Read in Part		
DETROIT, MI VOR/DME *2300—MOCA.	U.S. CANADIAN BORDER	*3400
U.S. CANADIAN BORDER *2300—MOCA.	GEMNI, OH FIX	*3400
GEMNI, OH FIX *2200—MOCA.	DRYER, OH VOR/DME	*3000
§ 95.6040 VOR Federal Airway V40 is Amended to Delete		
U.S. CANADIAN BORDER *4000—MRA.	*KITTY, OH FIX	4000
KITTY, OH FIX	DRYER, OH VOR/DME	3000
§ 95.6042 VOR Federal Airway V42 is Amended to Delete		
WATERVILLE, OH VOR/DME	VARYS, OH INT	4000
VARYS, OH INT 3500	DROVE, OH INT	MAA— 14000
DROVE, OH INT	YOUNGSTOWN, OH VORTAC	3000
§ 95.6048 VOR Federal Airway V48 is Amended to Read in Part		
PEORIA, IL VORTAC *2300—MOCA.	MAROC, IL FIX	*3000
MAROC, IL FIX	PONTIAC, IL VOR/DME	2400
§ 95.6053 VOR Federal Airway V53 is Amended to Read in Part		
LOUISVILLE, KY VORTAC *3000—MOCA.	HOUSE, IN FIX	*10000
HOUSE, IN FIX *2300—MOCA.	MOUTH, IN FIX	*2800
MOUTH, IN FIX	BRICKYARD, IN VORTAC	2700
§ 95.6069 VOR Federal Airway V69 is Amended to Read in Part		
PONTIAC, IL VOR/DME *2200—MOCA.	JOLIET, IL VORTAC	*3000
§ 95.672 VOR Federal Airway V72 is Amended to Delete		
ROSEWOOD, OH VORTAC	MANSFIELD, OH VORTAC	3000
MANSFIELD, OH VORTAC	AKRON, OH VOR/DME	3000
AKRON, OH VOR/DME	YOUNGSTOWN, OH VORTAC	3000
YOUNGSTOWN, OH VORTAC	HAGAR, PA FIX	3000
HAGAR, PA FIX	TIDIOUTE, PA VORTAC	3500
TIDIOUTE, PA VORTAC *3500—MOCA.	BRADFORD, PA VOR/DME	4000
BRADFORD, PA VOR/DME	EXALL, PA FIX	*4500
EXALL, PA FIX *3500—MOCA.	ELMIRA, NY VOR/DME	*4000
ELMIRA, NY VOR/DME	BINGHAMTON, NY VORTAC	3500
BINGHAMTON, NY VORTAC	OXFOR, NY FIX	3500
OXFOR, NY FIX	ROCKDALE, NY VOR/DME	4000
ROCKDALE, NY VOR/DME	ALBANY, NY VORTAC	4000
ALBANY, NY VORTAC *3000—MOCA.	CAMBRIDGE, NY VOR/DME	*4000
CAMBRIDGE, NY VOR/DME *5000—MCA JAMMA, VT FIX , W BND. **5400—MOCA.	*JAMMA, VT FIX	**6000
JAMMA, VT FIX	LEBANON, NH VOR/DME	5000
§ 95.6075 VOR Federal Airway V75 is Amended to Read in Part		
DRYER, OH VOR/DME *2200—MOCA.	U.S. CANADIAN BORDER	*4000
§ 95.6090 VOR Federal Airway V90 is Amended to Read in Part		
SALEM, MI VORTAC	U.S. CANADIAN BORDER	*4000

REVISIONS TO IFR ALTITUDES CHANGEOVER POINTS—AMENDMENT 466—Continued

[Effective date March 15, 2007]

From	To	MEA
*2700—MOCA. U.S. CANADIAN BORDER	BEWEL, OH FIX	*4000
*2700—MOCA. BEWEL, OH FIX	DUNKIRK, NY VORTAC	3000
§ 95.6096 VOR Federal Airway V96 is Amended to Read in Part		
FORT WAYNE, IN VORTAC	ILLIE, OH FIX	*5000
*2200—MOCA. ILLIE, OH FIX	ANNTS, OH FIX	*16000
*2100—MOCA. ANNTS, OH FIX	DETROIT, MI VOR/DME	*3000
*2000—MOCA.		
§ 95.6103 VOR Federal Airway V103 is Amended to Read in Part		
AKRON, OH VOR/DME	U.S. CANADIAN BORDER	*9000
*2700—MOCA. U.S. CANADIAN BORDER	DETROIT, MI VOR/DME	*4000
*2700—MOCA. DETROIT, MI VOR/DME	PONTIAC, MI VORTAC	*3000
*2400—MOCA.		
§ 95.6116 VOR Federal Airway V116 is Amended to Delete		
EXCEL, MO FIX	MACON, MO VOR/DME	*3000
*2300—MOCA. MACON, MO VOR/DME	QUINCY, IL VORTAC	*2700
*2100—MOCA. QUINCY, IL VORTAC	PEORIA, IL VORTAC	*2500
*2000—MOCA. PEORIA, IL VORTAC	MAROC, IL FIX	*3000
*2300—MOCA. MAROC, IL FIX	PONTIAC, IL VOR/DME	2400
PONTIAC, IL VOR/DME	JOLIET, IL VORTAC	*3000
*2200—MOCA.		
§ 95.6116 VOR Federal Airway V116 is Amended to Read in Part		
U.S. CANADIAN BORDER	TRACE, OH FIX	*7000
*1900—MOCA. TRACE, OH FIX	ERIE, PA VORTAC	*3000
*2200—MOCA.		
§ 95.6176 VOR Federal Airway V176 is Added to Read		
CARLETON, MI VORTAC	U.S. CANADIAN BORDER	*3000
*2100—MOCA.		
§ 95.6222 VOR Federal Airway V222 is Amended to Read in Part		
HUMBLE, TX VORTAC	BEAUMONT, TX VOR/DME	3000
§ 95.6262 VOR Federal Airway V262 is Amended to Read in Part		
MOTIF, IL FIX	JOLIET, IL VORTAC	*3000
*2200—MOCA.		
§ 95.6297 VOR Federal Airway V297 is Amended to Delete		
SAGINAW, MI VOR/DME	BENNY, MI FIX	2200
BENNY, MI FIX	BANJO, MI FIX	2500
BANJO, MI FIX	ZABLE, MI FIX	*5000
*2700—MOCA. ZABLE, MI FIX	*RONDO, MI FIX	3000
*5000—MRA. *RONDO, MI FIX	OTREE, MI FIX	**3000
*5000—MRA. **2400—MOCA. OTREE, MI FIX	PELLSTON, MI VORTAC	*3000
*2400—MOCA.		

REVISIONS TO IFR ALTITUDES CHANGEOVER POINTS—AMENDMENT 466—Continued

[Effective date March 15, 2007]

From	To	MEA
§ 95.6297 VOR Federal Airway V297 is Amended to Read in Part		
AKRON, OH VOR/DME *3000—MOCA.	U.S. CANADIAN BORDER	*6000
§ 95.6383 VOR Federal Airway V383 is Added to Read		
ROSEWOOD, OH VORTAC	DETROIT, MI VOR/DME	3100
§ 95.6396 VOR Federal Airway V396 is Added to Read		
U.S. CANADIAN BORDER *2700—MOCA.	CHARDON, OH VOR/DME	*8000
§ 95.6406 VOR Federal Airway V406 is Added to Read		
SALEM, MI VORTAC *2700—MOCA.	U.S. CANADIAN BORDER	*4000
§ 95.6410 VOR Federal Airway V410 is Added to Read		
PONTIAC, MI VORTAC *2500—MOCA.	U.S. CANADIAN BORDER	*4000
§ 95.6416 VOR Federal Airway V416 is Added to Read		
ROSEWOOD, OH VORTAC *4000—MRA. **2500—MOCA. *LAWTO, OH FIX	*LAWTO, OH FIX	**4000
*4000—MRA. *2500—MOCA. MANSFIELD, OH VORTAC	MANSFIELD, OH VORTAC	*4000
MANSFIELD, OH VORTAC JAKEE, OH FIX	JAKEE, OH FIX	3000
§ 95.6418 VOR Federal Airway V418 is Added to Read		
SALEM, MI VORTAC *2700—MOCA.	U.S. CANADIAN BORDER	*4000
U.S. CANADIAN BORDER *2700—MOCA.	BEWEL, OH FIX	*4000
BEWEL, OH FIX *3300—MOCA.	JAMESTOWN, NY VOR/DME	*4000
§ 95.6426 VOR Federal Airway V426 is Added to Read		
CARLETON, MI VORTAC *2400—MOCA.	AMRST, OH FIX	*3000
AMRST, OH FIX *2200—MOCA.	DRYER, OH VOR/DME	*3000
§ 95.6435 VOR Federal Airway V435 is Amended to Read in Part		
ROSEWOOD, OH VORTAC *2700—MOCA.	OBRLN, OH FIX	*5000
OBRLN, OH FIX *2400—MOCA.	DRYER, OH VOR/DME	*3000
95.6467 VOR Federal Airway V467 is Added to Read		
RICHMOND, IN VORTAC *3000—MOCA.	WATERVILLE, OH VOR/DME	*10000
WATERVILLE, OH VOR/DME *2100—MOCA.	DETROIT, MI VOR/DME	*3000
§ 95.6471 VOR Federal Airway V471 is Amended to Read in Part		
BARHA, ME FIX *2500—MOCA.	BANGOR, ME VORTAC	*3000
BANGOR, ME VORTAC *2100—MOCA.	MILLINOCKET, ME VOR/DME	*2500
MILLINOCKET, ME VOR/DME *2000—MOCA.	HOULTON, ME VOR/DME	*2600

REVISIONS TO IFR ALTITUDES CHANGEOVER POINTS—AMENDMENT 466—Continued

[Effective date March 15, 2007]

From	To	MEA
HOULTON, ME VOR/DME *2100—MOCA.	U.S. CANADIAN BORDER	*2600
§ 95.6486 VOR Federal Airway V486 is Added to Read		
LEBRN, OH FIX	CHARDON, OH VOR/DME	3000
CHARDON, OH VOR/DME	ALLCO, PA FIX	3300
ALLCO, PA FIX	JAMESTOWN, NY VOR/DME	*3700
*3200—MOCA.		
§ 95.6526 VOR Federal Airway V526 is Amended to Delete		
WATERVILLE, OH VOR/DME	DRYER, OH VOR/DME	2700
DRYER, OH VOR/DME	CHARDON, OH VOR/DME	3000
CHARDON, OH VOR/DME	YOUNGSTOWN, OH VORTAC	3000
YOUNGSTOWN, OH VORTAC	MERCY, PA FIX	3000
MERCY, PA FIX	CLARION, PA VOR/DME	*3100
*3100—MOCA.		
95.6542 VOR Federal Airway V542 is Added to Read		
ROSEWOOD, OH VORTAC	*LAWTO, OH FIX	**4000
*4000—MRA.		
**2500—MOCA.		
*LAWTO, OH FIX	MANSFIELD, OH VORTAC	**4000
*4000—MRA.		
**2500—MOCA.		
MANSFIELD, OH VORTAC	AKRON, OH VOR/DME	3000
AKRON, OH VOR/DME	YOUNGSTOWN, OH VORTAC	*3000
*2600—MOCA.		
YOUNGSTOWN, OH VORTAC	HAGAR, PA FIX	3000
HAGAR, PA FIX	TIDIOUTE, PA VORTAC	3500
TIDIOUTE, PA VORTAC	BRADFORD, PA VOR/DME	*4000
*3500—MOCA.		
BRADFORD, PA VOR/DME	EXALL, PA FIX	*4500
*3500—MOCA.		
EXALL, PA FIX	ELMIRA, NY VOR/DME	*4000
*3500—MOCA.		
ELMIRA, NY VOR/DME	BINGHAMTON, NY VORTAC	3500
BINGHAMTON, NY VORTAC	OXFOR, NY FIX	3500
OXFOR, NY FIX	ROCKDALE, NY VOR/DME	4000
ROCKDALE, NY VOR/DME	ALBANY, NY VORTAC	4000
ALBANY, NY VORTAC	CAMBRIDGE, NY VOR/DME	*4000
*3000—MOCA.		
CAMBRIDGE, NY VOR/DME	*JAMMA, VT FIX	**6000
*5000—MCA JAMMA, VT FIX , W BND.		
**5400—MOCA.		
JAMMA, VT FIX	LEBANON, NH VOR/DME	5000
§ 95.6584 VOR Federal Airway V584 is Added to Read		
WATERVILLE, OH VOR/DME	DRYER, OH VOR/DME	*3000
*2200—MOCA.		
§ 95.6586 VOR Federal Airway V586 is Added to Read		
EXCEL, MO	FIX MACON, MO VOR/DME	*3000
*2300—MOCA.		
MACON, MO VOR/DME	QUINCY, IL VORTAC	*2700
*2100—MOCA.		
QUINCY, IL VORTAC	PEORIA, IL VORTAC	*2500
*2000—MOCA.		
PEORIA, IL VORTAC	MAROC, IL FIX	*3000
*2300—MOCA.		
MAROC, IL FIX	PONTIAC, IL VOR/DME	2400
PONTIAC, IL VOR/DME	JOLIET, IL VORTAC	*3000
*2200—MOCA.		
§ 95.6609 VOR Federal Airway V609 is Added to Read		
SAGINAW, MI VOR/DME	BENNY, MI FIX	2200

REVISIONS TO IFR ALTITUDES CHANGEOVER POINTS—AMENDMENT 466—Continued

[Effective date March 15, 2007]

From	To	MEA
BENNY, MI FIX *2200—MOCA.	BANJO, MI FIX	*3000
BANJO, MI FIX *2900—MOCA.	ZABLE, MI FIX	*5000
ZABLE, MI FIX *5000—MRA.	*RONDO, MI FIX	3000
*RONDO, MI FIX *5000—MRA.	OTREE, MI FIX	**3000
**2400—MOCA.		
OTREE, MI FIX *2400—MOCA.	PELLSTON, MI VORTAC	*3000

Airway segment		Changeover points	
From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Points is Amended to Modify Changeover Point			
WHITE CLOUD, MI VOR/DME	MANISTEE, MI VOR/DME	28	WHITE CLOUD.

[FR Doc. E7-3051 Filed 2-22-07; 8:45 am]
BILLING CODE 4910-13-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

RIN 3038-AC35

Advertising by Commodity Pool Operators, Commodity Trading Advisors, and the Principals Thereof

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) has amended Regulation 4.41, which governs advertising by commodity pool operators (CPOs), commodity trading advisors (CTAs), and the principals thereof, (1) To restrict the use of testimonials, (2) to clarify the required placement of the prescribed simulated or hypothetical performance disclaimer, and (3) to include within the regulation's coverage advertisement through electronic media (Amendments). This action is in furtherance of the Commission's longstanding view that all advertisements by CPOs, CTAs, and their principals must not be fraudulent, deceptive or misleading.

EFFECTIVE DATE: March 26, 2007.

FOR FURTHER INFORMATION CONTACT:

Barbara S. Gold, Associate Director, or Peter B. Sanchez, Staff Attorney, Division of Clearing and Intermediary Oversight, Commodity Futures Trading

Commission, 1155 21st Street, NW., Washington, DC 20581, telephone numbers: (202) 418-5450 or (202) 418-5237, respectively; facsimile number: (202) 418-5528; and electronic mail: bgold@cftc.gov or psanchez@cftc.gov, respectively.

SUPPLEMENTARY INFORMATION:

I. Background

A. Regulation 4.41

Part 4 of the Commission's regulations governs the operations and activities of CPOs and CTAs.¹ In particular, Regulation 4.41 pertains to advertising by CPOs, CTAs, and the principals² thereof, an issue first addressed by the Commission over 25 years ago. The Commission originally proposed that CPOs, CTAs, and their principals could not advertise their actual past performance results in a format other than that which the CPO or CTA was required to use in its Disclosure Document,³ and that the presentation of simulated or hypothetical performance of a CPO, CTA, or the principals thereof would be prohibited.⁴ In response to the comments received and its further

deliberations on these proposals, the Commission adopted less restrictive advertising regulations.⁵

With respect to the presentation of actual past performance, the Commission explained that it had adopted in Regulation 4.41(a) "a rule that leaves to the discretion of the [CPO, CTA, or principal] advertising performance results—whether actual, simulated or hypothetical—the format of that presentation, so long as that format is not false, misleading or deceptive."⁶ With regard to the presentation of simulated or hypothetical performance results, the Commission explained that it had adopted in Regulation 4.41(b) "a rule that allows the presentation of those results, provided that the presentation is accompanied by the statement prescribed in the rule," whose purpose was "to alert prospective customers to the limitations inherent in simulated and hypothetical past performance

⁵ 46 FR 26004 (May 8, 1981).

⁶ While acknowledging that it was not possible to identify every advertisement that was prohibited by new Regulation 4.41, the Commission nonetheless gave notice in the **Federal Register** release announcing the adoption of the rule that it would consider the following, non-exclusive list of advertisements, to be prohibited:

(1) References only to successful trades, if during the same time period, trades which were unsuccessful were also recommended or executed; (2) references to the results during a specific time period, if the results claimed were not fairly representative of results achieved for comparable periods; (3) suggestions, assurances or claims of profit potential that do not also fairly present the possibility of loss; (4) statements of opinions or predictions which are not clearly labeled as such or which have no reasonable basis in fact; and (5) failure to disclose whether, and to what extent, fees, commissions and other expenses are reflected in the past performance results. *Id.* at 26012.

¹ 17 CFR Part 4 (2006). The Commodity Exchange Act (Act), 7 U.S.C. 1 *et seq.* (2000), and the Commission's regulations issued thereunder may be accessed through the Commission's Web site, at <http://www.cftc.gov/cftc.cftclawreg.htm>.

² The definition of the term "principal" is set forth in Regulation 4.10(e)(1), which cross-references the definition of the term in Regulation 3.1(a). An example of a principal of a CPO organized as a corporation would be the corporation's chief executive officer.

³ Regulations 4.21 and 4.24-4.26 and 4.31 and 4.34-4.36 concern the Disclosure Document that registered CPOs and CTAs, respectively, must prepare, deliver, and file.

⁴ 45 FR 51600 (Aug. 4, 1980).

results.”⁷ The Commission also noted the scope of new Regulation 4.41—that it applied to both oral and written communications and regardless of whether a CPO or a CTA was exempt from registration under the Act.⁸

B. The Proposal

Based upon its experience with the operation of Regulation 4.41 over the course of the past 25 years, on August 23, 2006, the Commission published for comment proposed amendments to the regulation (Proposing Release).⁹ Specifically, the Commission proposed to amend Regulation 4.41: (1) To restrict the use of testimonials; (2) to clarify the required placement of the prescribed simulated or hypothetical performance disclaimer; and (3) to include within the regulation’s coverage advertisement through electronic media (Proposal).

C. The Comments on the Proposal

The Commission received six comment letters in response to the Proposal, as follows:¹⁰ one from a registered futures association; one from a bar association; one from a futures industry trade association; and three from unregistered CTAs.¹¹ The first three commenters supported the Proposal, stating that it would further the goals of Regulation 4.41. The CTAs, however, questioned the Commission’s authority to adopt and maintain Regulation 4.41 altogether.

Specifically, they objected to Regulation 4.41 on the grounds that it violates the First Amendment as applied to some CTAs. However, as the Commission explained in the Proposing Release, false, deceptive or misleading commercial speech is not protected by the First Amendment, and disclosure requirements to ensure that commercial speech is not false, deceptive or misleading are a constitutionally

permissible form of regulation.¹² Thus, the Commission continues to believe that, because Regulation 4.41 applies to forms of communication used by CTAs and CPOs for marketing their services, the regulation is subject to the constitutional standards for commercial speech and it complies with those standards.

In light of the foregoing and the specific comments the Commission received on the Proposal, which are discussed more fully below, the Commission is adopting the revisions to Regulation 4.41 as proposed. In the Proposing Release, the Commission provided a detailed explanation of each revision it had proposed to make. Accordingly, the scope of this **Federal Register** release generally is restricted to responding to the comments received on the Proposal. The Commission invites interested persons to read the Proposing Release for a fuller discussion of the purpose of each of the amendments contained in the Proposal.

II. Responses to the Comments

A. New Regulation 4.41(a)(3): Testimonials on Actual Past Performance of CPOs, CTAs, and Their Principals

As proposed and as adopted, Regulation 4.41(a)(3) requires advertisements of the actual past performance of a CPO, CTA, or a principal thereof that refer to a testimonial to prominently disclose specified information about the testimonial—*e.g.*, that it may not be representative of the experience of other clients. As the Commission noted, it modeled this provision upon Rule 2210(d)(2) of the National Association of Securities Dealers, Inc. (NASD), which sets similar limits on the use of testimonials in advertisements and other marketing materials applicable to NASD members—*i.e.*, persons who are registered as securities broker-dealers under the Securities Exchange Act of 1934 (BDs).¹³

One commenter questioned why the Commission proposed to regulate the use of testimonials along the lines of the NASD requirement for BDs, as opposed to adopting an outright prohibition against their use—as the Securities and Exchange Commission has done with respect to persons registered or required to be registered as investment advisers.¹⁴ The same commenter asked

the Commission to explain its rationale for how it approached the use of testimonials—*e.g.*, whether the Commission had based its approach on problems the Commission had observed or on requests for clarification from CPOs and CTAs.

The purpose of this amendment, as with all of the Amendments, is to “modernize and clarify” the Commission’s regulations concerning communications with the public—which was the same purpose of the NASD in proposing its Rule 2210(d)(2).¹⁵ While the Commission based this amendment on the observations of its staff, those observations were not of a nature so as to justify the adoption of an outright ban on testimonials at this time. In addition, the Commission notes that, as proposed and as adopted, Regulation 4.41(a)(3) applies to *all* CPOs and CTAs, not solely to those CPOs and CTAs subject to registration.

B. Amended Regulation 4.41(b): The Statement That Must Accompany Simulated or Hypothetical Performance of CPOs, CTAs, and Their Principals

1. Regulation 4.41(b)(1): The Text of the Statement

Regulation 4.41(b)(1) prohibits the presentation of simulated or hypothetical performance results of a CPO, CTA, or principal thereof unless that presentation is accompanied by either: (1) The statement prescribed by the regulation; or (2) a statement prescribed by a registered futures association. The National Futures Association (NFA) currently is the sole registered futures association, and it has prescribed such a statement in its Compliance Rule 2–29(c).¹⁶ As proposed, the Commission has amended Regulation 4.41(b)(1) so as to clarify the meaning of the term “accompanied by” in the context of the statement prescribed by the regulation.¹⁷

One of the commenters on the Proposal questioned the need for alternative statements under the regulation. In response, the Commission notes that the availability of alternative statements provides a meaningful option for compliance with the regulation. Indeed, in the more than ten years following NFA’s adoption of

⁷ *Id.*

⁸ Section 4m(1) of the Act, 7 U.S.C. 6m(1) (2000), generally requires the registration of CPOs and CTAs. Regulation 4.13 provides exemptions from CPO registration for certain persons, and Sections 4m(1) and 4m(3) and Regulation 4.14 provide exemptions from CTA registration for certain other persons.

⁹ 71 FR 49387. The Proposing Release may be accessed through the Commission’s Web site, at <http://www.cftc.gov/files/foia/fedreg06/foi060823a.pdf>.

¹⁰ The comments on the Proposal similarly may be accessed through the Commission’s Web site, at http://www.cftc.gov/foia/comment06/foi06-005_1.htm.

¹¹ It appears that each of these CTAs is exempt from registration pursuant to Regulation 4.14(a)(9), which provides an exemption from registration for a CTA who does not direct client accounts or who does not provide commodity interest trading advice based on, or tailored to, the commodity interest or cash market positions or other circumstances or characteristics of particular clients.

¹² 71 FR at 49389, citing *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626, 638 (1985), and *Pearson v. Shalala*, 164 F.3d 650, 655 (D.C. Cir. 1999).

¹³ 71 FR at 49388 n.9.

¹⁴ See 17 CFR 275.206(4)–1(a)(1) (2006).

¹⁵ See 68 FR 27116 at 27117 (May 19, 2003).

¹⁶ All of NFA’s rules can be accessed through NFA’s Web site, www.nfa.futures.org.

¹⁷ The Commission additionally has conformed the reference to performance in the statement to the references throughout Regulation 4.41(b), so the statement now refers to “simulated or hypothetical” performance (whereas previously it referred to “hypothetical or simulated” performance).

Compliance Rule 2–29(c),¹⁸ the Commission has not been made aware of any compliance or other issues arising from the existence of alternative cautionary statements in Regulation 4.41(b)(1).¹⁹ Accordingly, the Commission has not adopted the recommendation of this commenter that it abandon its own prescribed statement in favor of the prescribed NFA statement.

Two commenters recommended that the Commission adopt an exception to its prescribed statement where advertisements are directed solely to persons who meet the definition of “qualified eligible person” (QEP) in Commission Regulation 4.7.²⁰ They claimed adoption of such an exception would be consistent with NFA Compliance Rule 2–29(c)(6). However, based upon its review of the record of the adoption of the NFA rule, the Commission has concluded that the NFA rule does not provide for any such exception.

In its Notice to Members announcing the adoption of amendments to, and a formal interpretation of, Compliance Rule 2–29(c), NFA stated:

Compliance Rule 2–29(c) and the Interpretative Notice do not apply to promotional materials directed exclusively to [QEPs] as defined in CFTC Regulation 4.7. However, CFTC Regulation 4.41(b) requires CPOs and CTAs to provide *all* potential pool participants or clients with either the disclaimer in NFA Compliance Rule 2–29(c) or the shorter disclaimer in CFTC Regulation 4.41(b)(1)(i) *if they are using hypothetical performance results*. Therefore, promotional materials directed to QEPs by CPOs and CTAs should continue to include the disclaimer in CFTC Regulation 4.41(b)(i)

¹⁸ See NFA Notice to Members, Notice I–95–24 (Dec. 28, 1995).

¹⁹ The Commission also notes that the use of alternative cautionary statements is not restricted to the presentation of simulated or hypothetical performance results. Commission Regulation 1.55(b) sets forth the risk disclosure statement to be made to customers by futures commission merchants (FCMs) and introducing brokers (IBs). Regulation 1.55(a) provides, however, that the Commission may approve a risk disclosure statement authorized by one or more foreign regulatory agencies or self-regulatory organizations. In 1994, the Commission approved the use of an alternative risk disclosure for use by FCMs and IBs for trading in futures and options in the United States, the United Kingdom, and Ireland. 59 FR 34376 (Jul. 5, 1994). The Commission similarly is unaware of any compliance or other problems arising from the existence of such dual general risk disclosures.

²⁰ Regulation 4.7 makes relief from otherwise applicable disclosure, reporting and recordkeeping requirements available to registered CPOs and CTAs whose participants and clients are solely QEPs—*e.g.*, certain Commission and SEC registrants, “knowledgeable employees” and “qualified purchasers,” and accredited investors who have investments with an aggregate market value of \$2 million.

(unless they include the disclaimer in Compliance Rule 2–29(c)) (emphasis in the original).²¹

Moreover, given the nature of simulated or hypothetical performance results, the Commission does not believe that it is appropriate to extend the approach of fewer disclosures to QEPs in this instance. Due to their financial sophistication and/or wealth, QEPs may justifiably be presumed to be better equipped to obtain information regarding industry professionals and to scrutinize the risks and rewards for particular investments. However, it is not clear that QEPs, solely by virtue of their being QEPs, are able to identify each instance in which otherwise unexplained performance results are simulated or hypothetical.

Accordingly, the Commission has not adopted the recommendation of these commenters.

2. Regulation 4.41(b)(2): The Meaning of “In Immediate Proximity”

Regulation 4.41(b)(2) requires that the statement prescribed by Regulation 4.41(b)(1) be “prominently disclosed” if the simulated or hypothetical performance that is presented is other than oral. In order to make clear that simulated or hypothetical performance is clearly identified as such, as proposed and as adopted, Regulation 4.41(b)(2) specifies that the prescribed disclaimer also must be “in immediate proximity to the simulated or hypothetical performance being presented.”

One commenter suggested that the proposed amendment lacked specificity as to the term “in immediate proximity.” The commenter requested that the Commission either define the term “in immediate proximity” or provide examples of how compliance with that requirement would be assessed in practice.

In determining what constitutes “in immediate proximity” for the purpose of Regulation 4.41(b), the Commission

²¹ See *supra* n. 18.

This NFA advice was issued pursuant to the Commission’s letter approving the amendments and interpretation, which stated:

Under recently-amended Commission Regulation 4.41, persons who present commodity interest hypothetical trading results in their promotional material must include in such materials either the disclaimer specified in Commission Regulation 4.41(b)(1)(i) or a disclaimer which complies with the rules promulgated by a registered futures association pursuant to Section 17(j) of the Act. Accordingly, NFA should inform its members that while new NFA Compliance Rule 2–29(c)(4) would not require members to provide [QEPs] with any disclaimer under Rule 2–29, members would be required to provide QEPs with a disclaimer pursuant to Commission Regulation 4.41(b)(1)(i). Letter from Jean A. Webb, Secretary of the Commission, to Daniel J. Roth, NFA’s General Counsel, dated Dec. 12, 1995.

does not believe that a bright-line test is practical for all circumstances. Rather, the Commission believes that, in determining what would constitute “in immediate proximity” to the simulated or hypothetical performance being advertised, the person providing the prescribed statement should use its best judgment. If it would be clear to someone viewing the simulated or hypothetical performance results that the statement is intended to refer to those particular performance results, then the statement would be “in immediate proximity” to the performance results.²² Thus, placing the statement on the cover page of a document would not be sufficient, because it would be on a different page from the simulated or hypothetical performance being shown. Similarly, if simulated or hypothetical performance results appear on several pages, the statement should appear on a sufficient number of pages so as to leave no doubt as to the nature of the performance results as they appear on each of those several pages.

II. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)²³ requires that agencies, in proposing regulations, consider the impact of those regulations on small businesses. The Commission has previously established certain definitions of “small entities” to be used by the Commission in evaluating the impact of its regulations on such entities in accordance with the RFA.²⁴

With respect to CTAs, the Commission has previously stated that it would evaluate within the context of a particular rule proposal whether all or some affected CTAs would be considered to be small entities and, if so, the economic impact on them of the proposal.²⁵ Moreover, the Commission stated that CPOs would be considered small entities if they are exempt from registration by virtue of Regulation 4.13(a).²⁶ The Commission does not believe that the Amendments will have a significant impact on affected CTAs,

²² Additional guidance regarding unacceptable practices can be gleaned from past enforcement actions concerning violations of Section 40 of the Act and Regulation 4.41. See, *e.g.*, *CFTC v. Vartuli*, 228 F.3d 94 (2d Cir. 2000) (prescribed statement appears on a separate page from the hypothetical trading results), and *CFTC v. Heffernan*, 245 F.Supp.2d 1276 (S.D. Ga. 2003) (statement on a webpage, but not included in the original advertisement containing the hypothetical performance).

²³ 5 U.S.C. 601 *et seq.*

²⁴ 47 FR 18618 (Apr. 30, 1982).

²⁵ *Id.* at 18620.

²⁶ *Id.*

CPOs, and their principals. This is because the only burden that will be imposed by the Amendments will be in furtherance of the obligation to comply with the antifraud provisions of Section 4o of the Act when presenting the past performance of CTAs, CPOs, and their principals—whether by way of actual, simulated or hypothetical performance or through the use of testimonials. Assuming *arguendo*, however, that compliance with Section 4o will constitute a significant burden, the burden is neither new nor additional, because the Amendments are consistent with the Commission's longstanding interpretation of Section 4o as applicable to all advertisements by CTAs, CPOs, and their principals, including advertisements that are viewed electronically, and with the requirement that such advertisements must not be false or misleading.

The Commission did not receive any comments relative to its analysis of the application of the RFA to the Proposal.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA)²⁷ imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The Amendments do not require a new collection of information on the part of any entities.

The Commission did not receive any comments relative to its analysis of the application of the PRA to the Proposal.

C. Cost-Benefit Analysis

Section 15(a) of the Act²⁸ requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, Section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, Section 15(a) simply requires the Commission to "consider the costs and benefits" of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and

could in its discretion determine that, notwithstanding its costs, a particular regulation was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The Commission did not receive any comments relative to its cost-benefit analysis of the Proposal.

List of Subjects in 17 CFR Part 4

Advertising, Commodity pool operators, Commodity trading advisors, Commodity futures, Commodity options, Customer protection, Reporting and Recordkeeping.

■ For the reasons presented above, the Commission hereby amends chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

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

Authority: 7 U.S.C. 1a, 2, 4, 6b, 6c, 6l, 6m, 6n, 6o, 12a, and 23.

■ 2. Section 4.41 is amended by removing "or" at the end of paragraph (a)(1), removing the period and adding a semi-colon and "or" at the end of paragraph (a)(2), adding new paragraph (a)(3), and revising paragraphs (b)(1)(i), (b)(2), and (c)(1) to read as follows:

§ 4.41 Advertising by commodity pool operators, commodity trading advisors, and the principals thereof.

(a) * * *

(3) Refers to any testimonial, unless the advertisement or sales literature providing the testimonial prominently discloses:

(i) That the testimonial may not be representative of the experience of other clients;

(ii) That the testimonial is no guarantee of future performance or success; and

(iii) If, more than a nominal sum is paid, the fact that it is a paid testimonial.

(b) * * *

(1) * * *

(i) The following statement: "These results are based on simulated or hypothetical performance results that have certain inherent limitations. Unlike the results shown in an actual performance record, these results do not represent actual trading. Also, because these trades have not actually been executed, these results may have under- or over-compensated for the impact, if any, of certain market factors, such as lack of liquidity. Simulated or

hypothetical trading programs in general are also subject to the fact that they are designed with the benefit of hindsight. No representation is being made that any account will or is likely to achieve profits or losses similar to these being shown." ; or

* * * * *

(2) If the presentation of such simulated or hypothetical performance is other than oral, the prescribed statement must be prominently disclosed and in immediate proximity to the simulated or hypothetical performance being presented.

(c) * * *

(1) To any publication, distribution or broadcast of any report, letter, circular, memorandum, publication, writing, advertisement or other literature or advice, whether by electronic media or otherwise, including information provided via internet or e-mail, the texts of standardized oral presentations and of radio, television, seminar or similar mass media presentations; and

* * * * *

Issued in Washington, DC, on February 16, 2007, by the Commission.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. E7-3122 Filed 2-22-07; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 123

Advance Electronic Presentation of Cargo Information for Truck Carriers Required To Be Transmitted Through ACE Truck Manifest at Ports in the States of Michigan and New York

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Pursuant to section 343(a) of the Trade Act of 2002 and implementing regulations, truck carriers and other eligible parties are required to transmit advance electronic truck cargo information to the Bureau of Customs and Border Protection (CBP) through a CBP-approved electronic data interchange. In a previous notice, CBP designated the Automated Commercial Environment (ACE) Truck Manifest System as the approved interchange and announced that the requirement that advance electronic cargo information be transmitted through ACE would be

²⁷ 44 U.S.C. 3501 *et seq.*

²⁸ 7 U.S.C. 19(a) (2000).

phased in by groups of ports of entry. This notice announces that at all land border ports in Michigan and New York, truck carriers will be required to file electronic manifests through the ACE Truck Manifest System.

DATES: Trucks entering the United States through land border ports of entry in the states of Michigan and New York will be required to transmit the advance information through the ACE Truck Manifest system effective May 24, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. James Swanson, via e-mail at james.d.swanson@dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 343(a) of the Trade Act of 2002, as amended (the Act; 19 U.S.C. 2071 note), required that CBP promulgate regulations providing for the mandatory transmission of electronic cargo information by way of a CBP-approved electronic data interchange (EDI) system before the cargo is brought into or departs the United States by any mode of commercial transportation (sea, air, rail or truck). The cargo information required is that which is reasonably necessary to enable high-risk shipments to be identified for purposes of ensuring cargo safety and security and preventing smuggling pursuant to the laws enforced and administered by CBP.

On December 5, 2003, CBP published in the **Federal Register** (68 FR 68140) a final rule to effectuate the provisions of the Act. In particular, a new section 123.92 (19 CFR 123.92) was added to the regulations to implement the inbound truck cargo provisions. Section 123.92 describes the general requirement that, in the case of any inbound truck required to report its arrival under section 123.1(b), if the truck will have commercial cargo aboard, CBP must electronically receive certain information regarding that cargo through a CBP-approved EDI system no later than 1 hour prior to the carrier's reaching the first port of arrival in the United States. For truck carriers arriving with shipments qualified for clearance under the FAST (Free and Secure Trade) program, section 123.92 provides that CBP must electronically receive such cargo information through the CBP-approved EDI system no later than 30 minutes prior to the carrier's reaching the first port of arrival in the United States.

ACE Truck Manifest Test

On September 13, 2004, CBP published a notice in the **Federal Register** (69 FR 55167) announcing a test allowing participating Truck Carrier

Accounts to transmit electronic manifest data for inbound cargo through ACE, with any such transmissions automatically complying with advance cargo information requirements as provided in section 343(a) of the Trade Act of 2002. Truck Carrier Accounts participating in the test were given the ability to electronically transmit the truck manifest data and obtain release of their cargo, crew, conveyances, and equipment via the ACE Portal or electronic data interchange messaging.

A series of notices announced additional deployments of the test, with deployment sites being phased in as clusters. Clusters were announced in the following notices published in the **Federal Register**: 70 FR 30964 (May 31, 2005); 70 FR 43892 (July 29, 2005); 70 FR 60096 (October 14, 2005); 71 FR 3875 (January 24, 2006); 71 FR 23941 (April 25, 2006); 71 FR 42103 (July 25, 2006); 71 FR 77404 (December 26, 2006) and 72 FR 7058 (February 14, 2007).

CBP continues to test ACE at various ports. CBP will continue, as necessary, to announce in subsequent notices in the **Federal Register** the deployment of the ACE truck manifest system test at additional ports.

Designation of ACE Truck Manifest System as the Approved Data Interchange System

In a notice published October 27, 2006, (71 FR 62922), CBP designated the Automated Commercial Environment (ACE) Truck Manifest System as the approved EDI for the transmission of required data and announced that the requirement that advance electronic cargo information be transmitted through ACE would be phased in by groups of ports of entry.

ACE will be phased in as the required transmission system at some ports even while it is still being tested at other ports. However, the use of ACE to transmit advance electronic truck cargo information will not be required in any port in which CBP has not first conducted the test.

The October 27, 2006, document identified all land border ports in the states of Washington and Arizona and the ports of Pembina, Neche, Walhalla, Maida, Hannah, Sarles, and Hansboro in North Dakota as the first group of ports where use of the ACE Truck Manifest System is mandated. Subsequently, CBP announced on January 19, 2007 (72 FR 2435) that, after 90 days notice, the use of the ACE Truck Manifest System will be mandatory at all land border ports in the states of California, Texas and New Mexico, as well.

ACE Mandated at Land Border Ports of Entry in Michigan and New York

Applicable regulations (19 CFR 123.92(e)) require CBP, 90 days prior to mandating advance electronic information at a port of entry, to publish notice in the **Federal Register** informing affected carriers that the EDI system is in place and fully operational. Accordingly, CBP is announcing in this document that, effective 90 days from the date of publication of this notice, truck carriers entering the United States at any land border port of entry in the states of Michigan and New York will be required to present advance electronic cargo information regarding truck cargo through the ACE Truck Manifest System.

Although other systems that have been deemed acceptable by CBP for transmitting advance truck manifest data will continue to operate and may still be used in the normal course of business for purposes other than transmitting advance truck manifest data, use of systems other than ACE will no longer satisfy advance electronic cargo information requirements at a port of entry in Michigan and New York as of May 24, 2007.

Compliance Sequence

CBP will be publishing subsequent notices in the **Federal Register** as it phases in the requirement that truck carriers utilize the ACE system to present advance electronic truck cargo information at other ports. ACE will be phased in as the mandatory EDI system at the ports identified below in the sequential order in which they are listed. The sequential order provided below is somewhat different than that announced in the October 27, 2006, notice. Although further changes to this order are not currently anticipated, CBP will state in future notices if changes do occur. In any event, as mandatory ACE is phased in at these remaining ports, CBP will always provide 90 days' notice through publication in the **Federal Register** prior to requiring the use of ACE for the transmission of advance electronic truck cargo information at a particular group of ports.

The remaining ports at which the mandatory use of ACE will be phased in, listed in sequential order, are as follows:

1. The remaining land border ports in the state of North Dakota and all land border ports in the state of Vermont.
2. All land border ports in the states of Idaho and Montana.
3. All land border ports in the states of Maine, New Hampshire, and Minnesota.

4. All land border ports in the state of Alaska.

Dated: February 20, 2007.

Deborah J. Spero,

Acting Commissioner, Customs and Border Protection.

[FR Doc. 07-829 Filed 2-22-07; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 71 and 171

[Docket No. 1995N-0220 (formerly 95N-0220)]

Substances Approved for Use in the Preparation of Meat and Poultry Products; Announcement of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Food and Drug Administration (FDA) is announcing the effective date for the information collection requirements contained in a final rule published in the **Federal Register** of August 25, 2000 (65 FR 51758). The rule amended FDA's regulations on food additive and color additive petitions to permit an efficient joint review by both FDA and the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA), of petitions for approval to use a food ingredient or source of radiation in or on meat or poultry products. An information collection requirement cannot be instituted unless it is reviewed by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA), approved by OMB, and assigned an OMB control number. OMB's approval of the information collection requirements of the August 25, 2000, final rule was announced in the **Federal Register** of March 1, 2001 (66 FR 12938), and these requirements are currently approved under OMB control number 0910-0016. Accordingly, FDA is announcing that the information collection requirements of the August 25, 2000, final rule will go into effect on March 26, 2007.

DATES: *Effective Date:* The amendments to §§ 71.1 and 171.1 (21 CFR 71.1 and 171.1), published in the **Federal Register** of August 25, 2000, are effective as of March 26, 2007.

FOR FURTHER INFORMATION CONTACT:

Ellen M. Waldron, Center for Food Safety and Applied Nutrition (HFS-206), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740-3835, 301-436-1256.

SUPPLEMENTARY INFORMATION: On August 25, 2000, FDA published a final rule entitled, "Substances Approved for Use in the Preparation of Meat and Poultry Products," which, in part, amended its regulations to permit an efficient joint review by both FDA and FSIS of USDA, of petitions for approval to use a food ingredient or source of radiation in or on meat or poultry products. The final rule requires applicants petitioning for approval for the use of substances in meat and poultry products to provide four copies of the petition to FDA, rather than the three copies previously specified in §§ 71.1 and 171.1. FDA will then forward a copy of the petition or relevant portions of the petition to FSIS so that both agencies can perform the necessary reviews simultaneously, thus reducing the time it takes to authorize a food additive or color additive for use in meat and poultry products. The rule does not require petitioners to submit any new information to either FDA or FSIS. This final rule resulted from a coordinated effort by the two agencies to ease the paperwork burden on regulated industries through streamlining the Government's approval process for substances used as food additives or color additives in meat and poultry products (§§ 71.1 and 171.1).

At the time of publication of the final rule, the information collection requirements contained in §§ 71.1 and 171.1 had been submitted to, but not yet approved by, OMB under the PRA (44 U.S.C. 3501-3520). Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless and until the collection displays a valid OMB control number.

FDA announced OMB approval of the information collection requirements in §§ 71.1 and 171.1, as amended by FDA's August 25, 2000, final rule, in the **Federal Register** of March 1, 2001. The agency is now announcing that these requirements will become effective on March 26, 2007. The information collection requirements at §§ 71.1 and 171.1 were originally assigned OMB control number 0910-0461. In December 2003, OMB control number 0910-0016 replaced OMB control number 0910-0461 as the valid control number that authorizes the information collection requirements. OMB control number 0910-0016 remains the

currently approved control number for §§ 71.1 and 171.1.

Dated: February 14, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 07-801 Filed 2-22-07; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01-07-017]

Drawbridge Operation Regulations; Cheesquake Creek, Morgan, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the New Jersey Transit Rail Operation (NJTRO) Railroad Bridge across Cheesquake Creek, mile 0.2, at Morgan, New Jersey. Under this temporary deviation, the bridge may remain in the closed position for two 24-hour time periods between February 20, 2007 and February 24, 2007. The exact two 24-hour closure dates will be determined based upon favorable weather necessary to perform the scheduled repairs. This deviation is necessary to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from February 20, 2007 through February 24, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, One South Street, New York, New York 10004, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668-7165. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Joe Arca, Project Officer, First Coast Guard District, at (212) 668-7069.

SUPPLEMENTARY INFORMATION:

The NJTRO Railroad Bridge, across Cheesquake Creek, mile 0.2, at Morgan, New Jersey, has a vertical clearance in the closed position of 3 feet at mean high water and 8 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.709(b).

The owner of the bridge, New Jersey Transit Rail Operation (NJTRO), requested a temporary deviation to facilitate scheduled bridge maintenance, electrical and structural maintenance. The bridge will not be able to open while the bridge maintenance is underway.

Under this temporary deviation the NJTRO Railroad Bridge may remain in the closed position for two 24-hour time periods between February 20, 2007 and February 24, 2007. The exact two 24-hour closure dates will be selected depending upon favorable weather necessary to perform the required repairs.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 15, 2007.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 07-860 Filed 2-21-07; 12:47 pm]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05-07-011]

RIN 1625-AA00

Safety Zone; Upper Chesapeake Bay and Its Tributaries and the C & D Canal, Maryland, Virginia, and Washington, DC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in all navigable waters of the Captain of the Port Baltimore zone. The temporary safety zone restricts vessels from transiting the zone during ice season, unless authorized by the Captain of the Port Baltimore, Maryland or designated representative through the issuance of broadcast notice to mariners and marine safety information bulletins. This safety zone is necessary to protect mariners from the hazards associated with ice.

DATES: This rule is effective from February 5, 2007 until April 15, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05-07-011 and are available for inspection or

copying at Commander, Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226-1791, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald L. Houck, Coast Guard Sector Baltimore, at (410) 576-2674.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and (d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after publication in the **Federal Register**. While formation of ice generally occurs in the winter months, predicting when ice will begin to form, where it will be located and the thickness of the ice is difficult and depends on the weather conditions. Ice has just begun to form in the area of this safety zone. Publishing an NPRM and delaying its effective date would be contrary to public interest, since immediate action is needed to protect mariners against potential hazards associated with ice and to ensure the safety of the environment on the Upper Chesapeake Bay and its tributaries.

Background and Purpose

During a moderate or severe winter, frozen waterways present numerous hazards to vessels. Ice in a waterway may hamper a vessel's ability to maneuver, and could cause visual aids to navigation to be submerged, destroyed or moved off station. Ice abrasions and ice pressure could also compromise a vessel's watertight integrity, and non-steel hulled vessels would be exposed to a greater risk of hull breach.

When ice conditions develop to a point where vessel operations become unsafe, it becomes necessary to impose operating restrictions to ensure the safe navigation of vessels. A safety zone is a tool available to the Captain of the Port (COTP) to restrict and manage vessel movement when hazardous conditions exist. The COTP Baltimore is establishing a safety zone within all navigable waters within the COTP Baltimore zone, that will restrict access to only those vessels meeting conditions specified in broadcast notice to mariners and marine safety information bulletins.

Ice generally begins to form in the Upper Chesapeake Bay and its tributaries, including the Chesapeake and Delaware (C & D) Canal, in late December or early January. During a moderate or severe winter, ice in

navigable waters can become a serious problem, requiring the use of federal, state and private ice breaking resources. The Commander, Coast Guard Sector Baltimore will use its COTP authority to promote the safe transit of vessels through ice-congested waters and the continuation of waterborne commerce throughout the winter season.

Ice fields in the Upper Chesapeake Bay and its tributaries move with prevailing winds and currents. Heavy ice buildups can occur in the C & D Canal, from Town Point Wharf to Reedy Point. Other areas that are commonly affected by high volumes of ice are, the Elk River, Susquehanna River, Patapsco River, Nanticoke River, Wicomico River, Tangier Sound, Pocomoke River and Sound, and the Potomac River. Once ice build up begins it can affect the transit of large ocean-going vessels.

Ice reports over the last several years have varied greatly on the Upper Chesapeake Bay and its tributaries. Historically, ice has been reported as NEW, FAST OR PACK ICE. The percentage of ice covering the river has been reported anywhere from 10% to 100%. The thickness has been reported anywhere from 1/2" to 18" thick.

Discussion of Rule

The purpose of this regulation is to promote maritime safety, and to protect the environment and mariners transiting the area from the potential hazards due to ice conditions that become a threat to navigation. This rule establishes a safety zone encompassing all waters of the COTP Baltimore zone. The COTP will notify the maritime community, via marine broadcasts, of the location and thickness of the ice as well as the ability of vessels to transit through the safety zone. Mariners allowed to travel through the safety zone with the permission of the COTP must maintain a minimum safe speed, in accordance with the Navigation Rules as seen in 33 CFR Chapter I, Subchapters D and E.

Ice Condition One means the emergency condition in which ice has largely covered the upper Chesapeake Bay and its tributaries, and the C & D Canal. Convoys are required and restrictions to shaft horsepower and vessel transit are imposed.

Ice Condition Two means the alert condition in which at least 2 inches of ice begins to form in the Upper Chesapeake Bay and its tributaries, and the C & D Canal. The COTP Baltimore may impose restrictions, including but not limited to, shaft horsepower and hull type restrictions.

Ice Condition Three means the readiness condition in which weather conditions are favorable for the

formation of ice in the navigable waters of the Upper Chesapeake Bay and its tributaries, and the C & D Canal. Daily reports for the Coast Guard Stations and commercial vessels are monitored. (No limitations on vessel traffic, hull type or shaft horsepower).

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Small Entities

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

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

Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–743–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 12211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule establishes a safety zone.

Under figure 2–1, paragraph (34)(g), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are available in the docket.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–011 to read as follows:

§ 165.T05–011 Safety zone; Upper Chesapeake Bay and its tributaries and the C & D Canal, MD, VA and Washington, DC

(a) *Location.* The following area is a temporary safety zone: All inland, navigable waters of the Captain of the Port, Baltimore zone.

(b) *Regulations.* All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.23 of this part.

(1) All vessel traffic is prohibited in the safety zone unless they meet the requirements set forth by the Captain of the Port by Marine Safety Radio Broadcast on VHF-FM marine band radio, channel 22A (157.1 MHz).

(2) All Coast Guard assets enforcing this safety zone can be contacted on VHF marine band radio, channels 13 and 16. The Captain of the Port can be contacted at telephone number (410) 576–2693.

(3) All persons desiring to transit through the safety zone must contact the Captain of the Port at telephone number (410) 576–2693 or on VHF channel 13 or 16 to seek permission prior to transiting the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port Baltimore, MD or designated representative.

(4) The Captain of the Port will notify the public of any changes in the status of this safety zone by Marine Safety Radio Broadcast on VHF-FM marine band radio, channel 22A (157.1 MHz).

(5) Mariners granted permission to transit the safety zone must maintain the minimum safe speed necessary to maintain navigation as per 33 CFR Chapter I, Subchapters D and E.

(c) *Definitions as used in this section.*

(1) Captain of the Port means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) Ice Condition One means the emergency condition in which ice has largely covered the Upper Chesapeake Bay and its tributaries, and the C & D Canal. Convoys are required and restrictions to shaft horsepower and vessel transit are imposed.

(3) Ice Condition Two means the alert condition in which at least 2 inches of ice begins to form in the Upper Chesapeake Bay and its tributaries, and the C & D Canal. The COTP Baltimore may impose restrictions, including but not limited to, shaft horsepower and hull type restrictions.

(4) Ice Condition Three means the readiness condition in which weather conditions are favorable for the formation of ice in the navigable waters of the Upper Chesapeake Bay and its tributaries, including the C & D Canal. Daily reports for the Coast Guard Stations and commercial vessels are monitored. (No limitations on vessel traffic, hull type or shaft horsepower).

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zones by Federal, State and local agencies.

(e) *Enforcement period.* This section will be enforced from February 5, 2007 until April 15, 2007.

Dated: February 5, 2007.

Jonathan C. Burton,

Commander, U.S. Coast Guard, Acting Captain of the Port Baltimore, Maryland.

[FR Doc. E7–3056 Filed 2–22–07; 8:45 am]

BILLING CODE 4910–15–P

LEGAL SERVICES CORPORATION**45 CFR Part 1611****Income Level for Individuals Eligible for Assistance**

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation (“Corporation”) is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the Federal

Poverty Guidelines as issued by the Department of Health and Human Services.

EFFECTIVE DATE: This rule is effective as of February 23, 2007.

FOR FURTHER INFORMATION CONTACT:

Mattie Cohan, Senior Assistant General Counsel, Legal Services Corporation, 3333 K St., NW., Washington, DC 20007; (202) 295–1624; mcohan@lsc.gov.

SUPPLEMENTARY INFORMATION:

Section 1007(a)(2) of the Legal Services Corporation Act (“Act”), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that other specified factors shall be taken into account along with income.

Section 1611.3(c) of the Corporation’s regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the Federal Poverty Guidelines. Since 1982, the Department of Health and Human Services has been responsible for updating and issuing the Federal Poverty Guidelines. The revised figures for 2007 set out below are equivalent to 125% of the current Federal Poverty Guidelines as published on January 24, 2007 (72 FR 3147).

In addition, LSC is publishing charts listing income levels that are 200% of the Federal Poverty Guidelines. These charts are for reference purposes only as an aid to grant recipients in assessing the financial eligibility of an applicant whose income is greater than 200% of the applicable Federal Poverty Guidelines amount, but less than 200% of the applicable Federal Poverty Guidelines amount (and who may be found to be financially eligible under duly adopted exceptions to the annual income ceiling in accordance with sections 1611.3, 1611.4 and 1611.5).

List of Subjects in 45 CFR Part 1611

Grant Programs—Law, Legal Services.

■ For reasons set forth above, 45 CFR part 1611 is amended as follows:

PART 1611—ELIGIBILITY

■ 1. The authority citation for part 1611 continues to read as follows:

Authority: Secs. 1006(b)(1), 1007(a)(1) Legal Services Corporation Act of 1974, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).

■ 2. Appendix A of part 1611 is revised to read as follows:

APPENDIX A OF PART 1611—LEGAL SERVICES CORPORATION 2006 POVERTY GUIDELINES *

Size of household	48 Contiguous States and the District of Columbia	Alaska	Hawaii
1	\$12,763	\$15,963	\$14,688
2	17,113	21,400	19,688
3	21,463	26,838	24,688
4	25,813	32,275	29,688
5	30,163	37,713	34,688
6	34,513	43,150	39,688
7	38,863	48,588	44,688
8	43,213	54,025	49,688
For each additional member of the household in excess of 8, add:	4,350	5,438	5,000

* The figures in this table represent 125% of the poverty guidelines by household size as determined by the Department of Health and Human Services.

REFERENCE CHART—200% OF DHHS FEDERAL POVERTY GUIDELINES

Size of household	48 Contiguous States and the District of Columbia	Alaska	Hawaii
1	\$20,420	\$25,540	\$23,500
2	27,380	34,240	31,500
3	34,340	42,940	39,500
4	41,300	51,640	47,500
5	48,260	60,340	55,500
6	55,220	69,040	63,500
7	62,180	77,740	71,500
8	69,140	86,440	79,500
For each additional member of the household in excess of 8, add:	6,960	8,700	8000

Victor M. Fortuno,
Vice President for Legal Affairs, General Counsel & Corporate Secretary.
 [FR Doc. E7-3074 Filed 2-22-07; 8:45 am]
BILLING CODE 7050-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[USCG-2006-24414]

RIN 1625-AB05

Rates for Pilotage on the Great Lakes

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is updating the rates for pilotage service on the Great Lakes for the 2007 navigation season. This increases pilotage rates an average of 22.62% across all three pilotage districts over the last ratemaking that was completed in April of 2006. Annual reviews of pilotage rates are required by law to ensure that sufficient revenues are generated to cover the annual projected allowable expenses, target pilot compensation,

and returns on investment of the pilot associations. The Coast Guard requests public comment on its calculation of these rate increases.

DATES: This interim rule is effective March 26, 2007. Comments and related material must reach the Docket Management Facility on or before April 24, 2007.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG-2006-24414 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

- (1) *Web site:* <http://dms.dot.gov>.
- (2) *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590-0001.
- (3) *Fax:* 202-493-2251.
- (4) *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. The telephone number is 202-366-9329.
- (5) Federal eRulemaking Portal: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For questions on this interim rule, call Mr. Michael Sakaio, Program Analyst, Office

of Great Lakes Pilotage, Commandant (CG-3PWM), U.S. Coast Guard, at 202-372-1538, by fax 202-372-1929, or by e-mail at michael.sakaio@uscg.mil. For questions on viewing or submitting material to the docket, call Renee V. Wright, Chief, Dockets, Department of Transportation, telephone 202-493-0402.

SUPPLEMENTARY INFORMATION:

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SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

We invite public comment on our calculation of the rate increases made in this interim rule, specifically with respect to Step 3 of the methodology. All comments received will be posted, without change, to <http://dms.dot.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this rulemaking (USCG-2006-24414), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this rule in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://dms.dot.gov> at any time, click on "Simple Search," enter the last five digits of the docket number for this rulemaking, and click on "Search." You

may also visit the Docket Management Facility in 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.

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

Public Meeting: We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

II. Background

The Great Lakes Pilotage Act of 1960, codified in Title 46, Chapter 93, of the United States Code (U.S.C.), requires foreign-flag vessels and U.S.-flag vessels in foreign trade to use federal Great Lakes registered pilots while transiting the St. Lawrence Seaway and the Great Lakes system. 46 U.S.C. 9302, 9308. The Coast Guard is responsible for administering this pilotage program, which includes setting rates for pilotage service.

The Coast Guard pilotage regulations require annual reviews of pilotage rates and the creation of a new rate at least once every five years, or sooner, if annual reviews show a need. 46 CFR part 404. 46 U.S.C. 9303(f) requires these reviews and, where deemed appropriate, adjustments be established by March 1 of every season.

To assist in calculating pilotage rates, the three Great Lakes pilotage associations are required to submit to the Coast Guard annual financial statements prepared by certified public accounting firms. In addition, every fifth year, in connection with the full ratemaking, the Coast Guard contracts with an independent accounting firm to conduct audits of the accounts and records of the pilotage associations and to submit financial reports relevant to the ratemaking process. In those years when a full ratemaking is conducted, the Coast Guard generates the pilotage rates using Appendix A to 46 CFR Part 404. Between the five-year full ratemaking intervals, the Coast Guard

annually reviews the pilotage rates using Appendix C to 46 CFR Part 404, and adjusts rates as appropriate.

The last full ratemaking was published in the **Federal Register** on April 3, 2006 (71 FR 16501). On July 13, 2006, we published a Notice of Proposed Rulemaking (NPRM; 71 FR 39629), thus beginning the first annual review and adjustment following that full ratemaking. By law, this review must be completed by March 1, 2007.

III. Discussion of Comments and Changes

The Coast Guard received four comments in response to the July 2006 NPRM. One comment was received from the American Maritime Officers' (AMO) union, two comments were received from the Lakes Pilots' Association (LPA), and one comment was received from the legal representative of the pilots' associations. This last commenter prefaced his discussion of several issues by stating that "the pilots are willing to have the Coast Guard defer action on [these issues] to the earliest possible time at which they will not delay the issuance of the updated rate pursuant to the current NPRM proceeding." We agree that timely completion of this annual rate update is of paramount importance.

Contract modifications. All four comments stated that AMO union contracts with one or more of the shipping companies on the Great Lakes had changed prior to the publication of the NPRM on July 13, 2006, and requested that the final rule reflect this change. After reviewing the submissions and researching the issue to confirm the accuracy of the comments, the Coast Guard has concluded that these comments are partially correct.

The AMO union contracts with six shipping companies on the Great Lakes. On August 1, 2003, the union negotiated collective bargaining agreements with these six companies establishing, among other things, wages and benefits for mariners effective until July 31, 2006. Three of those companies, based on our research, have subsequently entered into Memorandums of Understanding dated July 23, 2004, March 11, 2005, and May 1, 2005, extending the termination dates of these collective bargaining agreements to July 31, 2007, and modifying the wage and benefit portions of the underlying collective bargaining agreements. These modifications initially became effective May 1, 2005, with additional modifications becoming effective August 1, 2005. The remaining three companies have not signed Memorandums of Understanding

extending and modifying the collective bargaining agreements. Accordingly, they continue to operate under the terms of the original 2003 contracts previously used by the Coast Guard to approximate first mates wages and benefits.

The Coast Guard agrees that, since these contract modifications went into effect prior to the date the NPRM was published, weight should be given to these updated contracts. However, the Coast Guard also believes that to properly approximate current first mates wages and benefits, we must also give consideration to the August 1, 2003, AMO union contracts that remain in effect with three of the six shipping companies. Accordingly, we have calculated first mates wages and benefits under both versions of the AMO union contracts and, using the deadweight tonnage (mid-summer capacity tonnage) of vessels operating under each of these contracts, apportioned target pilot compensation based on the percentage of tonnage represented by each of the contracts to arrive at a weighted average target pilot compensation. This calculation is discussed in greater detail under Step 3 of this Appendix C Ratemaking Methodology. We specifically request public comment on this calculation.

Calculation of projected bridge hours. One commenter pointed out that we rounded up the bridge hour projections shown in Step 2.B of the Appendix A calculations for the 2006 final rule and in Step 3 of the Appendix C calculations for this rulemaking's NPRM. The commenter stated, correctly, that this was a departure from our past practice, and that the resulting artificial overstatement of traffic projections lowers rates. Because we now agree with this comment, we have corrected Step 3 in our Appendix C computations, to show actual projected bridge hours rather than rounded-up projections. This affects subsequent computations made under Appendix C, and raises rates an average of 3% over what we proposed in the NPRM. We also note by this commenter's remark that the impact of our error was most notable in District One, which has suffered the cessation of fast ferry service that accounted for 1,144 projected bridge hours in the 2006 ratemaking. This interim rule removes those hours from the District One projection.

Delay and detention. One commenter alleged that our 2006 ratemaking "changes, without explanation" our "longstanding practice" of counting "delay and detention" hours in the pilots' workload, and that this

rulemaking's NPRM perpetuates this alleged error.

The comment is incorrect. The Coast Guard has never considered delay, detention, or travel time to be included in the definition of bridge hours and has never knowingly included these items in its bridge hour computations. The Appendix A, Step 2.B definition of bridge hours as the "number of hours a pilot is aboard a vessel providing basic pilotage service" has never changed. We have consistently and publicly stated that this excludes detention, delay, or travel time: See, for example, 65 FR 55206 at 55208 (Sep. 13, 2000), 66 FR 36484 (Jul. 12, 2001). In 2002, we reiterated this policy at the same time as we acknowledged a possible inadvertent departure from the policy in 2001. 67 FR 47464 (Jul. 19, 2002). The policy has been expressed and followed in all our ratemaking documents since 2002.

The commenter further cited Rear Admiral J. Timothy Riker's March 4, 2003 report on Great Lakes pilotage, in which he recommended including delay and detention in calculating bridge hours. The commenter expressed concern over the "slow pace" of the Coast Guard's response to the Riker report and asked us to implement its recommendations promptly. The report can be found at <http://dms.dot.gov>, under Docket USCG-2002-13191 where it appears as item 85.

The Riker report presented a series of recommendations for Coast Guard consideration. We are, and have been, actively engaged in reviewing these recommendations. This will be the subject of a separate **Federal Register** notice.

150% factor for designated waters. One commenter alleged that we have improperly calculated target pilot compensation for pilots servicing designated waters. The Coast Guard's standard practice under Appendix A, Step 2.A(1) and (2), is to calculate this compensation by multiplying first mates wages by 150%, and then adding benefits. The commenter believes that, instead, we should multiply the total of first mates wages and benefits by 150%. The rationale for the Coast Guard's method of calculation was given in the Saint Lawrence Seaway Development Corporation's 1997 final rule (62 FR 5917, 5920; Feb. 10, 1997). Further discussion can be found in the docket for the 1997 rule; see <http://www.dms.dot.gov>, Docket SLSDC-1996-1781, item 22.

This issue was the subject of litigation between the Lakes Pilots Association and the Coast Guard. In an unpublished Memorandum Opinion (*Lakes Pilots' Association v. United States Coast*

Guard, Civil Action No. 01-1721(RBW); Apr. 4, 2003), which we have placed in the docket for this rulemaking, the U.S. District Court for the District of Columbia upheld the Coast Guard's interpretation of the applicable regulations and the method used to calculate target pilot compensation for pilots servicing designated waters. It is the Coast Guard's view that this matter has been resolved by the court's decision.

Rate adjustment with Canada. One commenter stated that U.S. pilotage rates must be identical to rates charged by the Canadian pilotage authority, in keeping with provisions of the January 18, 1977 Memorandum of Arrangements (MOA) regarding Great Lakes pilotage, which was signed by the U.S. Secretary of Transportation and the Canadian Minister of Transport, and which remains in effect. Paragraph 7 of the MOA states that "the Secretary and the Minister will arrange for the establishment of regulations imposing identical rates, charges and any other conditions or terms being annexed hereto from time to time as a Rate Supplement and to be deemed as part of this Memorandum of Arrangements" (emphasis added). The MOA is enforceable only between the two sovereign nations that are party to it. No private right of action is created by which individuals might seek to enforce the MOA for their own benefit.

This comment is beyond the scope of this rulemaking, which merely applies existing U.S. regulations. Those regulations reflect the MOA, in that they allow for rate adjustment after U.S. consultation with Canada, but they do not automatically adjust U.S. rates to reflect Canadian rates, nor do they require U.S. rates to be identical to Canadian rates. We infer that the commenter's intent is to encourage consultation between the U.S. and Canada so that rates will be made identical. Due to vast differences in the pilotage systems and ratemaking methodologies of the two nations, and to frequent economic fluctuations that affect the two nations dissimilarly, it may not be practicable, or desirable from the perspective of the U.S. pilots, to set identical rates. However, we have been discussing with the Canadian Great Lakes Pilotage Authority ways to achieve rate parity.

IV. Discussion of the Interim Rule

A. Pilotage Rate Changes—Summarized

This interim rule adjusts the rates for Federal pilots on the Great Lakes, contained in 46 CFR 401.405, 401.407, and 401.410, in accordance with

Appendix C of 46 CFR part 404. Using this methodology, the rate adjustment results in an average increase of 22.62% across all Districts over the last pilotage rate adjustment. Fourteen and seven-tenths percent (14.7%) of the increase is attributable to increases in wages and benefits contained in the most recent American Maritime Officers' union contracts that were not included in the NPRM; 5% of the increase is attributable to increased traffic projections based upon changes in traffic levels between 2005 and 2006; 3% of the increase is attributable to adjustments made in the rate computation rounding projected bridge hours to unrounded values; and 0.5% of the increase is attributable to non-wage inflation.

2007 AREA RATE CHANGES

If pilotage service is required in:	Then the percentage increases over the current rate is:
Area 1 (Designated waters)	21.04
Area 2 (Undesignated waters)	29.51
Area 4 (Undesignated waters)	22.07
Area 5 (Designated waters)	25.32
Area 6 (Undesignated waters)	14.97
Area 7 (Designated waters)	18.33
Area 8 (Undesignated waters)	27.08

Rates for "Cancellation, delay or interruption in rendering services (§ 401.420)" and "Basic rates and charges for carrying a U.S. pilot beyond [the] normal change point, or for boarding at other than the normal boarding point (§ 401.428)" have been

increased by 22.62%. These changes are the same in every Area.

B. Calculating the Rate Adjustment

The ratemaking analyses and methodology contained in Appendix C to 46 CFR part 404 comprises eight steps. These steps are:

1. Calculating the Base Period Total Economic Cost (Cost Per Bridge Hour by Area for the Base Period);
2. Calculating the Expense Multiplier;
3. Calculating the Annual Projection of Target Pilot Compensation;
4. Increasing the Projected Pilot Compensation in Step 3 by the Expense Multiplier;
5. Adjusting the Result for Inflation or Deflation;
6. Dividing the Result in Step 5 by Projected Bridge Hours to Determine Total Unit Costs (Adjusted Cost per Bridge Hour by Area);
7. Dividing Prospective Unit Costs (Total Unit Cost) in Step 6 by the Base Period Unit Costs in Step 1; and
8. Adjusting the Base Period rates by the Percentage Changes in Unit Cost in Step 7.

The base data used to calculate each of the eight steps comes from the last full ratemaking, as indicated in the April 3, 2006 final rule. Target pilot compensation is calculated based upon the most recent contracts between the American Maritime Officers'(AMO) union and vessel owners and operators on the Great Lakes. Bridge hour projections for the 2007 season are based on historical data and data provided by the St. Lawrence Seaway Development Corporation. Bridge hours are the number of hours a pilot is aboard

a vessel providing pilotage service and do not include delay, detention, or travel time. All documents and records used in this rate calculation mentioned in this preamble as being available in the docket have been placed in the public docket for this rulemaking and are available for review at the addresses listed under **ADDRESSES**.

Some values may not total exactly due to format rounding for presentation in charts and explanations in this section. The rounding does not affect the integrity or truncate the real value of all calculations in the ratemaking methodology described below.

Step 1: Calculating the Base Period Total Economic Cost (Cost per Bridge Hour by Area for the Base Period)

The base period numbers used in all calculations are those that were set by the last full ratemaking in 2006. The data used for this first step is obtained from the 2006 final rule's tables containing the base operating expense, base target pilot compensation, and base return element computations. This first step requires that we calculate the total economic cost for the base period by taking from these tables, and adding together, the recognized expenses, the total cost of target pilot compensation, and the return element in each Area. We then take this sum and divide it by the total bridge hours used in each Area in setting the base period rates. This calculation gives us the cost of providing pilotage service per bridge hour by Area for the base period.

The following tables summarize the Step 1 computations:

TABLE 1.—BASE PERIOD TOTAL ECONOMIC COST (COST PER BRIDGE HOUR)—DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total district one
Base Operating Expenses	\$368,186	\$372,911	\$741,097
Base Target Pilot compensation	+\$1,207,209	+\$725,848	+1,933,057
Base Return Element ¹	+\$8,087	+\$10,185	+\$18,272
Subtotal	=\$1,583,482	=\$1,108,944	=\$2,692,426
Base Bridge Hours	+6,000	+9,000	+15,000
Base Cost per Bridge Hour	=\$263.91	=\$123.22	=\$179.50

¹ The return element is defined at Appendix B to 46 CFR part 404 as the sum of net income and interest expense. The return element can be considered the sum of the return to equity capital (net increase), and the return to debt (the interest expense).

TABLE 2.—BASE PERIOD TOTAL ECONOMIC COST (COST PER BRIDGE HOUR)—DISTRICT TWO

	Area 4 Lake Erie	Area 5 South-east Shoal to Port Huron, MI	Total district two
Base Operating Expenses	\$427,333	\$632,117	\$1,059,450
Base Target Pilot compensation	+\$725,848	+\$1,408,410	+\$2,134,258
Base Return Element	+\$20,354	+\$24,275	+\$44,629

TABLE 2.—BASE PERIOD TOTAL ECONOMIC COST (COST PER BRIDGE HOUR)—DISTRICT TWO—Continued

	Area 4 Lake Erie	Area 5 South-east Shoal to Port Huron, MI	Total district two
Subtotal	=\$1,173,535	=\$2,064,802	=\$3,238,337
Base Bridge Hours	+9,000	+7,000	+16,000
Base Cost per Bridge Hour	=\$130.39	=\$294.97	=\$202.40

TABLE 3.—BASE PERIOD TOTAL ECONOMIC COST (COST PER BRIDGE HOUR)—DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total district three
Base Operating Expenses	\$693,924	\$271,563	\$433,484	\$1,398,971
Base Target Pilot compensation	+\$1,451,696	+\$804,806	+\$1,016,187	+\$3,272,689
Base Return Element	+\$25,283	+\$9,768	+\$15,451	+\$50,502
Subtotal	=\$2,170,903	=\$1,086,137	=\$1,465,122	=\$4,722,162
Base Bridge Hours	+18,000	+4,000	+12,600	+34,600
Base Cost per Bridge Hour	=\$120.61	=\$271.53	=\$116.28	=\$136.48

Step 2. Calculating the Expense Multiplier

The expense multiplier is the ratio of both the base operating expenses and

the base return element to the base target pilot compensation by Area. This step requires that we add together the base operating expense and the base return element. Then we divide the sum

by the base target pilot compensation to get the expense multiplier for each Area. The following tables show the calculations:

1. EXPENSE MULTIPLIER FOR DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total district one
Base Operating Expense	\$368,186	\$372,911	\$741,097
Base Return Element	+\$8,087	+\$10,185	+\$18,272
Subtotal	=\$376,273	=\$383,096	=\$759,369
Base Target Pilot Compensation	+\$1,207,209	+\$725,848	+\$1,933,057
Expense Multiplier	=.31169	=.52779	=.39283

2. EXPENSE MULTIPLIER FOR DISTRICT TWO

	Area 4 Lake Erie	Area 5 South-east Shoal to Port Huron, MI	Total district two
Base Operating Expense	\$427,333	\$632,117	\$1,059,450
Base Return Element	+\$20,354	+\$24,275	+\$44,629
Subtotal	=\$447,687	=\$656,392	=\$1,104,079
Base Target Pilot Compensation	+\$725,848	+\$1,408,410	+\$2,134,258
Expense Multiplier	=.61678	=.46605	=.51731

3. EXPENSE MULTIPLIER FOR DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total district three
Base Operating Expense	\$693,924	\$271,563	\$433,484	\$1,398,971
Base Return Element	+\$25,283	+\$9,768	+\$15,451	+\$50,502
Subtotal	=\$719,207	=\$281,331	=\$448,935	=\$1,449,473
Base Target Pilot Compensation	+\$1,451,696	+\$804,806	+\$1,016,187	+\$3,272,689

3. EXPENSE MULTIPLIER FOR DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total district three
Expense Multiplier	=.49543	=.34956	=.44178	=.44290

Step 3. Calculating the New Annual "Projection of Target Pilot Compensation" Using the Same Procedures Found in Step 2 of Appendix A to 46 CFR Part 404

Step 2 of Appendix A requires the Director of Great Lakes Pilotage to:

1. Determine the new target rate of compensation;
2. Determine the new number of pilots needed in each pilotage Area; and
3. Multiply new target compensation by the new number of pilots needed to project total new target pilot compensation needed in each Area.

Each step is detailed as follows:

1. Determination of New Target Pilot Compensation

Target pilot compensation for pilots providing services in undesignated waters approximates the average annual compensation for first mates on U.S. Great Lakes vessels. Target pilot compensation for pilots providing services in designated waters approximates the average annual compensation for masters on U.S. Great Lakes vessels. The Office of Great Lakes Pilotage has consistently calculated compensation for masters on the Great Lakes by first multiplying first mates' salaries by 150% and then adding

benefits, since this is the best approximation of the average annual compensation for masters.

For this interim rule, the average annual compensation for first mates has been partially revised, based on comments to the docket, and confirming research performed by the Coast Guard, to reflect changes in the AMO union contracts on the Great Lakes. The AMO union contracts with six shipping companies on the Great Lakes. On August 1, 2003, the union negotiated collective bargaining agreements with these six companies establishing, among other things, wages and benefits for mariners effective until July 31, 2006. Three of those companies, based on our research, have subsequently entered into Memorandums of Understanding dated July 23, 2004, March 11, 2005 and May 1, 2005, extending the termination dates of these collective bargaining agreements to July 31, 2007, and modifying the wage and benefit portions of the underlying collective bargaining agreements. These modifications initially became effective May 1, 2005, with additional modifications becoming effective August 1, 2005. The remaining three companies have not signed Memorandums of Understanding

extending and modifying the collective bargaining agreements and they, accordingly, continue to operate under the terms of the original 2003 contracts the Coast Guard previously used to approximate first mates' wages and benefits.

In light of the foregoing and to effectuate these changes, the Coast Guard has calculated target pilot compensation under both versions of the AMO union contracts and, using the deadweight tonnages (mid-summer capacity) of vessels operating under each of these contracts, apportioned target pilot compensation based on the percentage of tonnage represented by each of the contracts, to arrive at a weighted average target pilot compensation accurately approximating compensation of first mates on the Great Lakes. We specifically request public comment on this calculation.

The following tables (1, 2, and 3) summarize how target pilot compensation is determined for undesignated and designated waters based on the AMO union contracts in effect on August 1, 2003. Data from these AMO union contracts were used in the NPRM published on July 13, 2006.

TABLE 1.—WAGES

Monthly component	(First mate) pilots on undesignated waters	(Master) pilots on designated waters
\$226.96 (Daily Rate) × 54 (Days)	\$12,256	N/A
Monthly Total × 9 Months = Total Wages	110,303	N/A
Wages: \$226.96 (Daily Rate) × 54 × 1.5	N/A	18,384
Monthly Total × 9 Months = Total Wages	N/A	165,454

TABLE 2.—BENEFITS

Monthly component	(First mate) pilots on undesignated waters	(Master) pilots on designated waters
Employer Contribution—401(K) Plan	\$612.79	\$919.19
Clerical	+\$340.44	+\$340.44
Health	+\$2,512.51	+\$2,512.51
Pension	+\$1,283.10	+\$1,283.10
Monthly Total Benefits	=\$4,748.84	=\$5,055.24

TABLE 2.—BENEFITS

Monthly component	(First mate) pilots on undesignated waters	(Master) pilots on designated waters
Monthly Total Benefits × 9 months	= \$42,740	= \$45,497

TABLE 3.—WAGES AND BENEFITS

	(First Mate) pilots on undesignated waters	(Master) pilots on designated waters
Wages	\$110,303	\$165,454
Benefits	+\$42,740	+\$45,497
Total Wages and Benefits	= \$153,042	= \$210,951

Under the AMO union contracts in effect on August 1, 2003, the monthly component for wages is derived by multiplying the daily rate of pay by 54 days, instead of 30 days, based upon the following formulation provided by the AMO union:

- a. Average Working Days per month—30.5.
- b. Vacation Days per month—15.0.
- c. Weekend Days per month—4.0.
- d. Holidays per month—1.5.
- e. Bonus per month—3.0.
- Monthly Multiplier—54.0.

Additionally, we use a nine-month multiplier in computing annual wages and benefits because the season is nine months in duration, not 12 months.

Effective August 1, 2002, the matching benefit increased to 50% for

each participating 401(k) employee up to a maximum of 5% of a participating employee's compensation. For purposes of this benefit, the AMO union contracts interpret "employee compensation" to mean base wages. District Two has a pension plan, while District Three has a 401(k) plan. District One does not provide either a 401(k) or pension plan for its members. Therefore, to conform to the 401(k) matching benefit provision under the AMO union contracts, pilot compensation for Districts Two and Three is increased. The increase in undesignated waters is \$5,515.20 and for designated waters is \$8,272.80 per pilot. These increases are 5% of compensation, respectively.

District One does not administer any form of 401(k) or retirement plan. At the

recommendation of the independent accountant, the Coast Guard has determined that the District One pilots should receive the same employer matching benefits as Districts Two and Three.

Accordingly, the compensation base of District One is adjusted to include an amount equivalent to an employer's contribution under the AMO 401(k) matching plan, which increases pilot compensation in undesignated waters by \$5,515.20 and for designated waters by \$8,272.80 per pilot.

The following tables (4, 5, and 6) summarize how target pilot compensation is determined for undesignated and designated waters under the modified AMO union contracts effective August 1, 2005:

TABLE 4.—WAGES

Monthly component	(First Mate) pilots on undesignated waters	(Master) pilots on designated waters
\$279.55 (Daily Wage Rate) × 49.5 (Days)	\$13,838	N/A
Monthly Total × 9 Months = Total Wages	124,540	N/A
\$279.55 (Daily Wage Rate) × 49.5 (Days) X 1.5	N/A	\$20,757
Monthly Total × 9 Months = Total Wages	N/A	186,809

TABLE 5.—BENEFITS

Monthly component	(First Mate) pilots on undesignated waters	(Master) pilots on designated waters
Employer Contribution—401(K) Plan	\$691.89	\$1,037.83
Clerical	N/A	N/A
Health	2,512.51	2,512.51
Pension	1,981.53	1,981.53
Monthly Total Benefits	5,185.92	5,531.86
Monthly Total Benefits × 9	46,673	49,787

TABLE 6.—TOTAL WAGES AND BENEFITS

	(First Mate) pilots on undesignated waters	(Master) pilots on designated waters
Wages	\$124,540	\$186,809
Benefits	46,673	49,787
Total Wages and Benefits	171,213	236,596

Under the modified AMO union contracts effective August 1, 2005, the daily wage rate was a flat \$279.55. This daily wage rate is multiplied by a new monthly multiplier component of 49.5, instead of the 54 days used under the August 1, 2003, AMO union contracts, based upon the following formulation provided by the AMO union:

a. Average Working Days per month—30.5.

b. Vacation Days per month—16.0.
c. Bonus per month—3.0.
Monthly Multiplier—49.5.

Additionally, we use a nine-month multiplier in computing annual wages and benefits because the season is nine months in duration, not 12 months.

Benefits under the modified AMO union contracts include a health contribution rate of \$55.22 per man-day and a pension plan contribution rate of \$43.55 per man-day. The AMO 401K

employer matching rate remained at 5% of compensation (wages) while the clerical contributions were eliminated.

To accurately reflect the compensation received by masters and mates serving on the Great Lakes, we have taken a weighted average of wages and benefits under the two sets of AMO union contracts. The following tables (7, 8, 9, and 10) show how this operation was performed.

TABLE 7.—TOTAL WAGES AND BENEFITS BY AMO UNION CONTRACTS

	Unmodified AMO union contracts eff: August 1, 2003	Modified AMO union contracts eff: August 1, 2005
Total Wages and Benefits for Designated Waters	\$210,951	\$236,596
Total Wages and Benefits for Un-Designated Waters	153,042	171,213

TABLE 8.—DEADWEIGHT TONNAGE BY AMO UNION CONTRACT

Great Lakes vessel operators	Unmodified AMO union contracts eff: August 1, 2003	Modified AMO union contracts eff: August 1, 2005
American Steamship Company .....	.....	664,215
Central Marine Logistics (Formerly Inland/ISPAT, Inc) .....	.....	96,544
Oglebay Norton Marine Services .....	.....	0
HMC Ship Management	12,656	.....
Key Lakes, Inc (Formerly USS Great Lakes Fleet)	303,145	.....
Interlake Leasing III	64,960	.....
Total Tonnage by each AMO contract	380,761	760,759
Percent Tonnage by each AMO contract	$380,761 \div 1,141,520 = 33.3556\%$	$760,759 \div 1,141,520 = 66.6444\%$

TABLE 9.—WEIGHTED AVERAGE WAGES AND BENEFITS BASED ON AMO UNION CONTRACTS

	Unmodified AMO union contract eff: August 1, 2003	Modified AMO union contract eff: August 1, 2005
Weighted Wages and Benefits (Designated Waters)	\$210,953 $\times .333556$ $= \$70,364$	\$236,600 $\times .666444$ $= \$157,678$
Weighted Wages and Benefits (Un-Designated Waters)	\$153,042 $\times .333556$ $= \$51,048$	\$171,213 $\times .666444$ $= \$114,104$

TABLE 10.—TOTAL WEIGHTED AVERAGE WAGES AND BENEFITS

	Designated waters	Un-designated waters
August 1, 2003 Contract	\$70,364	\$51,048
August 1, 2005 Contract	157,678	114,104
Total Weighted Wages and Benefits	228,042	165,152

In calculating the average wages and benefits used in determining target pilot compensation, we first determine the total wages and benefits for designated and undesignated waters under each of the two sets of AMO union contracts (Table 7). Next, we add the total gross deadweight tonnage of vessels under each version of the AMO contracts and calculate the percentage of tonnage represented under each version (Table 8). Based on these calculations, we have estimated current total tonnage at approximately 1.2 million. Of this total, approximately 66% of the tonnage is controlled by shipping companies operating under the modified AMO union contracts, and approximately 33% of the tonnage is controlled by shipping companies operating under the unmodified AMO union contracts.

Next, we take the total wages and benefits for designated and undesignated waters under the unmodified AMO union contracts (Table 3) and multiply by approximately 33% and we take the total wages and benefits for designated and undesignated waters under the modified AMO union contract (Table 6) and multiply these by approximately 66%. The results of these computations are added together to arrive at the weighted average target pilot compensation (Table 10).

2. Determination of New Number of Pilots Needed

The number of pilots needed in each Area of designated waters is established by dividing the total projected number of bridge hours for that Area by 1,000. The number of pilots needed in each Area of undesignated waters is

established by dividing the total number of projected bridge hours for that Area by 1,800. Under the ratemaking methodology, a pilot in designated waters must work 1,000 bridge hours per season to earn projected target pilot compensation. In undesignated waters a pilot must work 1,800 bridge hours to earn target pilot compensation. A bridge hour is defined as an hour of time in which a pilot is aboard a vessel providing basic pilotage service.

Dividing the total projected number of bridge hours per Area by the number of bridge hours a pilot needs to work to earn target pilot compensation yields the number of pilots that will be needed in each area to service vessel traffic. Projected bridge hours are based on the vessel traffic that pilots are expected to serve.

As previously discussed, the Coast Guard has adjusted the bridge hour calculations contained in the NPRM to reflect actual projected hours for each Area as opposed to the rounded bridge hours previously used to correct for overestimations of projected revenue, expenses, and returns on investment. The Coast Guard has also revised upward its projection of traffic for the 2007 navigation season based upon data received showing an upward trend in tonnage moved within the system, and increases in both vessel transits and bridge hours between 2004 and 2006. The revised projections are made based upon historical data, recent data obtained from the St. Lawrence Seaway Development Corporation, and relevant information provided by pilots and industry.

The data analyzed by the Coast Guard has been conflicting. It consists of

changes in annual tonnage throughput, numbers of vessel transits, and changing bridge hour requirements from 1999 through 2006. Despite the conflicting data, measurable increases in traffic have occurred between 2004 and 2006 in Area 1 (St. Lawrence Seaway), Area 2 (Lake Ontario), and Area 4 (Lake Erie). No discernable increases have occurred in the remaining Areas. Depending how the data is analyzed the results vary significantly. A regression analysis performed for the period 1999 to 2006 shows that while traffic has fluctuated over this period of time, current levels of traffic are about equal to average long term traffic loads. If just recent bridge hour data is analyzed, however, it appears that traffic has increased approximately 13% in Area 1, 19% in Area 2, and 4% in Area 4 between 2005 and 2006. Based upon the data available to us, we project that these traffic levels will continue into the 2007 season. Accordingly, we have adjusted projected bridge hour totals to reflect these recent trends in traffic.

As previously indicated, the bridge hour projection appearing in the NPRM for Area 2 of District One was reduced to reflect unrounded projected bridge hour numbers and reduced again by 1144 bridge hours reflecting the loss of traffic due to the fast ferry going out of business. After performing these adjustments, the 19% projected increase in traffic was applied.

The following table, “Number of Pilots Needed,” shows the projection of bridge hours by area and the calculation of the number of pilots needed in each Area for the 2007 navigation season rounded to the next whole pilot:

NUMBER OF PILOTS NEEDED

Pilotage area	Projected 2007 bridge hours	Divided by bridge-hour target	Pilots needed
AREA 1	5,661	1,000	6
AREA 2	7,993	1,800	5
AREA 4	8,490	1,800	5
AREA 5	6,395	1,000	7
AREA 6	18,000	1,800	10
AREA 7	3,863	1,000	4
AREA 8	11,390	1,800	7

NUMBER OF PILOTS NEEDED—Continued

Pilotage area	Projected 2007 bridge hours	Divided by bridge-hour target	Pilots needed
Total Pilots Needed	44

3. Projection of New Total Target Pilot Compensation
 The projection of new total target pilot compensation is determined

separately for each pilotage Area by multiplying the number of pilots needed in each Area by the target pilot

compensation for pilots working in that Area.
 The results for each pilotage Area are set out as follows:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total district one
Projection of target pilot compensation	\$1,368,253	\$825,760	\$2,194,013

DISTRICT TWO

	Area 4 Lake Erie	Area 5 South-east Shoal to Port Huron, MI	Total district two
Projection of target pilot compensation	\$825,760	\$1,596,295	\$2,422,055

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total district three
Projection of target pilot compensation	\$1,651,520	\$912,168	\$1,156,064	\$3,719,752

Step 4: Increase the New Total Target Pilot Compensation in Step 3 by the Expense Multiplier in Step 2
 The increase in Step 4 refers to the proportional increase of operating

expense when new total target pilot compensation is multiplied by the expense multiplier. The calculations for Step 4 appear as follows:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total district one
Pilot Compensation	\$1,368,253	\$825,760	\$2,194,013
Expense Multiplier	× 31169	× 52779	× 39283
Projected Increase in Operating Expense	=\$426,468	=\$435,829	=\$861,881

DISTRICT TWO

	Area 4 Lake Erie	Area 5 south-east Shoal to Port Huron, MI	Total district two
Pilot Compensation	\$825,760	\$1,596,295	\$2,422,055
Expense Multiplier	× 61678	× 46605	× 51731
Projected increase in Operating Expense	=\$509,310	=\$743,956	=\$1,252,960

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total district three
Pilot Compensation	\$1,651,520	\$912,168	\$1,156,064	\$3,719,752
Expense Multiplier	× 49543	× 34956	× 44178	× 44290
Projected Increase in Operating Expense	=\$818,205	=\$318,861	=\$510,730	=\$1,647,478

Step 5(a): Adjust the Result in Step 4, as Required, for Inflation or Deflation

The calculations for Step 5(a) appear below. Inflation rates were obtained

from the U.S. Department of Labor, Bureau of Labor Statistics, "Midwest Economy—Consumer Prices," using the

years 2004 to 2005 annual average in the amount of 3.2% per year.

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total district one
Projected Increase in Operating Expense	\$426,468	\$435,829	\$861,881
Inflation Rate	× 1.032	× 1.032	× 1.032
Adjusted Projected Increase in Operating Expense	=\$440,115	=\$449,776	=\$889,461

DISTRICT TWO

	Area 4 Lake Erie	Area 5 South- east Shoal to Port Huron, MI	Total district two
Projected Increase in Operating Expense	\$509,310	\$743,956	\$1,252,960
Inflation Rate	× 1.032	× 1.032	× 1.032
Adjusted Projected Increase in Operating Expense	=\$525,608	=\$767,763	=\$1,293,055

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total district three
Projected Increase in Operating Expense	\$818,205	\$318,861	\$510,730	\$1,647,478
Inflation Rate	× 1.032	× 1.032	× 1.032	× 1.032
Adjusted Projected Increase in Operating Expense	=\$844,388	=\$329,065	=\$527,074	=\$1,700,197

Step 5(b): Calculate Projected Total Economic Costs

After the inflation adjustments are made to the Operating Expenses in Step

5(a), the adjusted amount (Adjusted Projected Increase in Operating Expense) is added to the New Total Target Pilot Compensation, as determined in Step 3, to arrive at a

Projected Total Economic Cost. The Total Economic Cost is necessary to determine the Total Unit Cost in Step 6. The calculations for Step 5(b) appear as follows:

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total district one
Adjusted Projected Increase in Operating Expense	\$440,115	\$449,776	\$889,461
Projected Target Pilot Compensation	+\$1,368,253	+\$825,760	+\$2,194,013
Projected Total Economic Cost	=\$1,808,368	=\$1,275,535	=\$3,083,474

DISTRICT TWO

	Area 4 Lake Erie	Area 5 South-east Shoal to Port Huron, MI	Total district two
Adjusted Projected Increase in Operating Expense	\$525,608	\$767,763	\$1,293,055
Projected Target Pilot Compensation	+\$825,760	+\$1,596,295	+\$2,422,055
Projected Total Economic Cost	=\$1,351,368	=\$2,364,058	=\$3,715,109

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total district three
Adjusted Projected Increase in Operating Expense	\$844,388	\$329,065	\$527,074	\$1,700,197
Projected Target Pilot Compensation	+\$1,651,520	+\$912,168	+\$1,156,064	+\$3,719,752
Projected Total Economic Cost	=\$2,495,907	=\$1,241,233	=\$1,683,138	=\$5,419,949

Step 6: Divide the Result in Step 5(b) by
Projected Bridge Hours to Determine
Total Unit Costs (Adjusted Cost per
Bridge Hour by Area)

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total district one
Projected Total Economic Costs	\$1,808,368	\$1,275,535	\$3,083,474
Projected Bridge Hours	+5,661	+7,993	+13,654
Total Unit Costs	=\$319.44	=\$159.58	=\$225.83

DISTRICT TWO

	Area 4 Lake Erie	Area 5 South-east Shoal to Port Huron, MI	Total district two
Projected Total Economic Costs	\$1,351,368	\$2,364,058	\$3,715,109
Projected Bridge Hours	+8,490	+6,395	+14,885
Total Unit Costs	=\$159.17	=\$369.67	=\$249.59

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total district three
Projected Total Economic Costs	\$2,495,907	\$1,241,233	\$1,683,138	\$5,419,949
Projected Bridge Hours	+18,000	+3,863	+11,390	+33,253
Total Unit Costs	=\$138.66	=\$321.31	=\$147.77	=\$162.99

Step 7: Divide Prospective Unit Costs in
Step 6 by the Base Period Unit Costs in
Step 1

This step calculates the percent
change in unit cost from the base period
to the prospective unit cost.

DISTRICT ONE

	Area 1 St. Lawrence River	Area 2 Lake Ontario	Total district one
Prospective Unit Cost (Total Unit Cost)	\$319.44	\$159.58	\$225.83
Base Period Unit Cost	+\$263.91	+\$123.22	+\$179.50
Percentage Change in Unit Cost (Rate Adjustment)	=1.2104	=1.2951	=1.2581

DISTRICT TWO

	Area 4 Lake Erie	Area 5 South-east Shoal to Port Huron, MI	Total district two
Prospective Unit Cost (Total Unit Cost)	\$159.17	\$369.67	\$249.59
Base Period Unit Cost	+\$130.39	+\$294.97	+\$202.40
Percentage Change in Unit Cost (Rate Adjustment)	=1.2207	=1.2532	=1.2332

DISTRICT THREE

	Area 6 Lakes Huron and Michigan	Area 7 St. Mary's River	Area 8 Lake Superior	Total district three
Prospective Unit Cost (Total Unit Cost)	\$138.66	\$321.31	\$147.77	\$162.99
Base Period Unit Cost	+\$120.61	+\$271.53	+\$116.28	+\$136.48
Percentage Change in Unit Cost (Rate Adjustment)	=1.1497	=1.1833	=1.2708	=1.1943

Step 8: Adjust the Base Period Rates by the Percentage Change in Unit Costs in Step 7

The "Percentage Change in Unit Cost" in Step 7 represents the percentage change or rate adjustment that will be applied to existing base period rates and charges in Subpart D of 46 CFR part 401. The average increase in rates overall three Districts is 22.62% above the 2006 final rule. The rate adjustments are summarized by Areas in the following table. The actual adjustments are shown in the proposed amendments to regulatory text that follow this preamble. Each of the Area rates listed in part 401 has been adjusted according to this table. Results are rounded to nearest whole dollar.

2007 AREA RATE CHANGES

If pilotage service is required in:	Then the percentage increases over the current rate is:
Area 1 (Designated waters)	21.04
Area 2 (Undesignated waters)	29.51
Area 4 (Undesignated waters)	22.07
Area 5 (Designated waters)	25.32
Area 6 (Undesignated waters)	14.97
Area 7 (Designated waters)	18.33
Area 8 (Undesignated waters)	27.08

V. Regulatory Evaluation

Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735, October 4, 1993, requires a determination whether a regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and subject to the requirements of the Executive Order. This rulemaking is not significant under Executive Order 12866 and has been reviewed by OMB.

The Coast Guard is required to conduct an annual review of pilotage rates on the Great Lakes and, if necessary, adjust these rates to align compensation levels between Great Lakes pilots and industry. (See the "Background" section for a detailed explanation of the legal authority and requirements for the Coast Guard to conduct an annual review and provide possible adjustments of pilotage rates on the Great Lakes.) Based on our review, we are adjusting the pilotage rates for the 2007 shipping season to generate sufficient revenue to cover allowable expenses, target pilot compensation, and returns on investment.

This interim rule implements a 22.62% average rate adjustment for the Great Lakes system over the rate adjustment found in the 2006 final rule. This adjustment has increased from the proposed 6% published in the NPRM due to changes made to address public

comments. (See the "Discussion of Comments and Changes" section for a discussion of the changes made from public comments.) The additional consideration of the wage and benefit increases under three of six union contracts, updating the inflation index, and modifying the projected bridge hours all added to the increased rate adjustment. Changes to AMO union contracts contributed the largest part of the change by increasing the target pilot compensation, resulting in the higher rate adjustment for the interim rule. (See the "Calculating the Rate Adjustment" section of this rulemaking for a detailed explanation of the ratemaking methodology).

These adjustments to Great Lakes pilotage rates meet the requirements set forth in 46 CFR part 404 for similar compensation levels between Great Lakes pilots and industry. They also include adjustments for inflation and changes in association expenses to maintain these compensation levels.

The increase in pilotage rates will be an additional cost for shippers to transit the Great Lakes system. This interim rule results in a distributional effect that transfers payments (income) from vessel owners and operators to the Great Lakes' pilot associations through Coast Guard regulated pilotage rates.

The shippers affected by these rate adjustments are those owners and

operators of domestic vessels operating on register (employed in the foreign trade) and owners and operators of foreign vessels on a route within the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. However, the Coast Guard issued a policy position several years ago stating that the statute applies only to commercial vessels and not to recreational vessels.

Owners and operators of other vessels that are not affected by this interim rule, such as recreational boats and vessels only operating within the Great Lakes system, may elect to purchase pilotage services. However, this election is voluntary and does not affect the Coast Guard's calculation of the rate increase and is not a part of our estimated national cost to shippers.

We reviewed a sample of pilot source forms, which are the forms used to record pilotage transactions on vessels, and discovered very few cases of U.S. Great Lakes vessels (i.e., domestic

vessels without registry operating only in the Great Lakes) that purchased pilotage services. There was one case where the vessel operator purchased pilotage service in District One to presumably leave the Great Lakes system. We assume some vessel owners and operators may also choose to purchase pilotage services if their vessels are carrying hazardous substances or were navigating the Great Lakes system with inexperienced personnel. Based on information from the Coast Guard Office of Great Lakes Pilotage, we have determined that these vessels voluntarily chose to use pilots and, therefore, are exempt from pilotage requirements.

We updated our estimates of affected vessels for the interim rule by using recent vessel characteristics, documentation, and arrival data. We used 2004–2005 vessel arrival data from the National Vessel Movement Center (NVMC) and the Coast Guard's Marine Inspection, Safety, and Law Enforcement (MISLE) system to estimate the average annual number of vessels

affected by the rate adjustment to be 269 vessels that journey into the Great Lakes system. These vessels entered the Great Lakes by transiting through or in part of at least one of the three pilotage Districts before leaving the Great Lakes system. These vessels often make more than one distinct stop docking, offloading, and onloading at facilities in Great Lakes ports. Of the total trips for the 269 vessels, there were approximately 1,040 annual U.S. port arrivals before the vessels left the Great Lakes system, based on 2004–2005 vessel data from the NVMC and MISLE.

We used district pilotage revenues from the independent accountant's reports of the Districts' financial statements to estimate the additional cost to shippers of the rate adjustments in this interim rule. These revenues represent the direct and indirect pilotage costs that shippers must pay for pilotage services in order to transit their vessels in the Great Lakes. Table 1 shows historical pilotage revenues by District.

TABLE 1.—DISTRICT REVENUES (\$U.S.)

Year	District one	District two	District three	Total
1998	2,127,577	3,202,374	4,026,802	9,356,753
1999	2,009,180	2,727,688	3,599,993	8,336,861
2000	1,890,779	2,947,798	4,036,354	8,874,931
2001	1,676,578	2,375,779	3,657,756	7,710,113
2002	1,686,655	2,089,348	3,460,560	7,236,563

Source: Annual independent accountant's reports of the Districts to the Coast Guard's Office of Great Lake Pilotage.

While the revenues have decreased over time, the Coast Guard adjusts pilotage rates to achieve a target pilot compensation similar to masters and first mates working on U.S. vessels

engaged in the Great Lakes trade. Table 2 details the revenue adjustment from the 2006 full rate adjustment final rule (71 FR 16501). This interim rule uses the total adjusted revenue from the 2006

final rule as a baseline to estimate the revenue needed for the 2007 shipping season.

TABLE 2.—REVENUES FROM THE 2006 FULL RATE ADJUSTMENT (\$U.S.)¹

District	District one	District two	District three	Total ²
2002 District Revenues	1,686,655	2,089,348	3,460,560	7,236,563
2006 Projected Revenue	2,231,940	2,375,920	3,908,363	8,516,223
2006 Total Adjusted Revenue	2,643,732	3,125,036	4,722,162	10,490,930

¹ For the calculation of the 2006 projected and adjusted pilotage revenues, see the "Discussion of Rule" section of the 2006 final rule published in the **Federal Register** (71 FR 16501).

² Some values may not total due to rounding.

We estimate the additional cost of the rate adjustment in this rule to be the difference between the total revenue needed based on the 2006 rate adjustment and the rate adjustment

(change) revenue in this interim rule. These revenue values and adjustments are described and calculated in the "Calculating the Rate Adjustment" section of this rulemaking. Table 3

compares projected and adjusted revenues and costs of the rule to industry by district.

TABLE 3.—REVENUES, RATE ADJUSTMENT FACTORS AND ADDITIONAL COST OF THIS RULE (\$U.S.)

District	District one	District two	District three	Total ¹
Total Adjusted Revenue ²	2,643,732	3,125,036	4,722,162	10,490,930

TABLE 3.—REVENUES, RATE ADJUSTMENT FACTORS AND ADDITIONAL COST OF THIS RULE (\$U.S.)—Continued

District	District one	District two	District three	Total ¹
Proposed Rate Change ³	1,2581	1,2332	1,1943	1,2262
Revenue Needed ⁴	3,326,079	3,853,794	5,639,678	12,819,552
Additional Revenue or Cost of this Rulemaking ⁵	682,347	728,758	917,516	2,328,622

¹ Some values may not total due to rounding.

² Total adjusted revenue = '2002 base revenue' + '2006 final rule rate adjustment revenue'.

³ See step 7 of the "Calculating the Rate Adjustment" section of this rule. We used the districts' percent change in unit costs for the rate change.

⁴ Revenue needed = 'total adjusted revenue' × 'proposed rate change'.

⁵ Additional revenue or cost of this rule = 'revenue needed' – 'total adjusted revenue'.

After applying the rate change in this interim rule, the resulting difference between the revenue projected and the revenue needed is the annual cost to shippers from this interim rule. This figure will be equivalent to the total additional payments that shippers will make for pilotage services from this interim rule.

The annual cost of the rate adjustment in this interim rule to shippers is approximately \$2.3 million (non-discounted). To calculate an exact cost per vessel is difficult because of the variation in vessel types, routes, port arrivals, commodity carriage, time of season, conditions during navigation, and preferences for the extent of pilotage services on designated and undesignated portions of the Great Lakes system. Some owners and operators will pay more and some will pay less depending on the distance and port arrivals of their vessels' trips. However, the annual cost reported above does capture all of the additional cost the shippers face as a result of the rate adjustment in this interim rule.

In addition to the annual reviews and possible partial rate adjustment, the Coast Guard is required to determine and, if necessary, perform a full adjustment of Great Lakes pilotage rates at a minimum of once every five years. Due to the frequency of the rate adjustments, we estimated the total cost to shippers of the rate adjustments in this interim rule over a five-year period instead of a ten-year period. The total five-year (2007–2011) present value cost estimate of this interim rule to shippers is \$10.2 million discounted at a 7% discount rate and \$11.0 million discounted at a 3% discount rate.

For the calculation of the total five-year present value cost estimate, we chose not to discount first-year costs and instead began discounting in the second year, because we anticipate that industry will most likely begin to incur costs immediately upon publication of this interim rule during the 2007 Great Lakes shipping season which is generally less than a calendar year. We also considered a middle-of-year

discounting process to account for the payments occurring over the course of the year but the difference was small considering the overall cost of the interim rule.

The cost to shippers of this interim rule is minimal compared with the travel cost shippers save when they use the Great Lakes system. The alternative to Great Lakes waterborne transportation is to choose coastal delivery, such as East Coast and Gulf Coast ports that are more expensive, and extra-modal transportation overland, which is far less practical and has additional transportation costs for all commodity groups. See the docket for this rulemaking, USCG–2006–24414, for an assessment of alternatives to Great Lakes waterborne transportation and the associated costs entitled "Analysis of Great Lakes Pilotage Costs on Great Lakes Shipping and the Potential Impact of Pilotage Rate Increases" (October 1, 2004).

A. Small Entities

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

We expect entities affected by the interim rule would be classified under the North American Industry Classification System (NAICS) code subsector 483—Water Transportation, which includes one or all of the following 6-digit NAICS codes for freight transportation: 483111—Deep Sea Freight Transportation, 483113—Coastal and Great Lakes Freight Transportation, and 483211—Inland Water Freight Transportation. According to the Small Business Administration's definition, a U.S. company with these NAICS codes and

employing less than 500 employees is considered a small entity.

For the interim rule, we reviewed recent company size and ownership data from 2004–2005 Coast Guard MISLE data and public and proprietary business revenue and size data. We found that large foreign-owned shipping conglomerates or their subsidiaries owned or operated all vessels engaged in foreign trade on the Great Lakes. We found one U.S. company operating vessels engaged in foreign trade in the Great Lakes system that was owned by a large foreign company between 2004–2005. We assume that new industry entrants will be comparable in ownership and size to these shippers.

There are three U.S. entities affected by the interim rule that will receive the additional revenues from the rate adjustment. These are the three pilot associations that are the only entities providing pilotage services within the Great Lakes districts. Two of the associations operate as partnerships and one operates as a corporation. These associations are classified with the same NAICS industry classification and small entity size standards described above, but they have far fewer than 500 employees: Approximately 65 total employees combined. However, they are not adversely impacted with the additional costs of the rate adjustments, but instead receive the additional revenue benefits for operating expenses and pilot compensation.

Therefore, the Coast Guard certifies under 5 U.S.C. § 605(b) that this interim rule does not have a significant economic impact on a substantial number of U.S. small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this interim rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule will economically affect it.

B. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the interim rule so that they could better evaluate its effects on them and participate in the rulemaking. If the interim rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Mike Sakaio, Office of Great Lakes Pilotage, (CG–3PWM–2), U.S. Coast Guard, telephone 202–372–1538 or send him e-mail at Michael.Sakaio@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this interim rule or any policy or action of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

C. Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501–3520), the Office of Management and Budget (OMB) reviews each rule that contains a collection of information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection of information requirements include reporting, record keeping, notification, and other similar requirements.

This interim rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). It does not change the burden in the collection currently approved by the Office of Management and Budget (OMB) under OMB Control Number 1625–0086, Great Lakes Pilotage Methodology.

D. Federalism

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

implications for federalism because there are no similar State regulations, and the States do not have the authority to regulate and adjust rates for pilotage services in the Great Lakes system.

E. Unfunded Mandates Reform Act

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

F. Taking of Private Property

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

G. Civil Justice Reform

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

H. Protection of Children

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

I. Indian Tribal Governments

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

J. Energy Effects

We have analyzed this interim rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because

it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

K. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This interim rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

L. Environment

We have analyzed this interim rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this interim rule is categorically excluded, under figure 2–1, paragraph (34)(a), of the Instruction, from further environmental documentation. Paragraph 34(a) pertains to minor regulatory changes that are editorial or procedural in nature. This interim rule adjusts rates in accordance with applicable statutory and regulatory mandates.

List of Subjects in 46 CFR Part 404

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

■ For the reasons set forth in the preamble, the Coast Guard amends part 401 of title 46 of the Code of Federal Regulations as follows:

PART 401—GREAT LAKES PILOTAGE REGULATIONS

Security Delegation No. 0170.1 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507.

§ 401.405 Basic rates and charges on the St. Lawrence River and Lake Ontario.

* * * * *

■ 1. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland

■ 2. In § 401.405, revise paragraphs (a) and (b), including the footnote to Table (a), to read as follows:

(a) Area 1 (Designated Waters):

Service	St. Lawrence River
Basic Pilotage	\$13 per Kilometer or \$23 per mile ¹
Each Lock Transited	\$288 ¹
Harbor Movage	\$943 ¹

¹ The minimum basic rate for assignment of a pilot in the St. Lawrence River is \$629, and the maximum basic rate for a through trip is \$2,761.

(b) Area 2 (Undesignated Waters):

Service	Lake Ontario
Six-Hour Period	\$477
Docking or Undocking	455

■ 3. In § 401.407, revise paragraphs (a) and (b), including the footnote to Table (b), to read as follows:

§ 401.407 Basic rates and charges on Lake Erie and the navigable waters from Southeast Shoal to Port Huron, MI.

* * * * *

(a) Area 4 (Undesignated Waters):

Service	Lake Erie (east of Southeast Shoal)	Buffalo
Six-Hour Period Docking or Undocking	\$641	\$641
Any Point on the Niagara River below the Black Rock Lock	494	494
	N/A	1,261

(b) Area 5 (Designated Waters):

Any point on or in	Southeast Shoal	Toledo or any point on Lake Erie west of Southeast Shoal	Detroit River	Detroit pilot boat	St. Clair River
Toledo or any port on Lake Erie west of Southeast Shoal. Port Huron Change	\$1,699	\$1,004	\$2,206	\$1,699	N/A
Point	12,959	13,428	2,223	1,729	1,229
St. Clair River	12,959	N/A	2,223	2,223	1,004
Detroit or Windsor or the Detroit River	1,699	2,206	1,004	N/A	2,223
Detroit Pilot Boat	1,229	1,699	N/A	N/A	2,223

¹ When pilots are not changed at the Detroit Pilot Boat.

■ 4. In § 401.410, revise paragraphs (a), (b), and (c) to read as follows:

§ 401.410 Basic rates and charges on Lakes Huron, Michigan, and Superior, and the St. Mary's River.

* * * * *

(a) Area 6 (Undesignated Waters):

Service	Lakes Huron and Michigan
Six-Hour Period	\$479
Docking or Undocking	455

(b) Area 7 (Designated Waters):

Area	De Tour	Gros cap	Any harbor
Gros Cap	\$1,718	N/A	N/A

Area	De Tour	Gros cap	Any harbor
Algoma Steel Corporation Wharf at Sault Ste. Marie Ontario	1,718	\$647	N/A
Any point in Sault Ste. Marie, Ontario, except the Algoma Steel Corporation Wharf	1,440	647	N/A
Sault Ste. Marie, MI	1,440	647	N/A
Harbor Morage	N/A	N/A	\$647

(c) Area 8 (Undesignated Waters):

Service	Lake Superior
Six-Hour Period	\$464
Docking or Undocking	441

§ 401.420 [Amended]

- 5. In § 401.420—
- a. In paragraph (a), remove the number “\$70” and add, in its place, the number “\$86”; and remove the number “\$1,100” and add, in its place, the number “\$1,349”.
- b. In paragraph (b), remove the number “\$70” and add, in its place, the number “\$86”; and remove the number “\$1,100” and add, in its place, the number “\$1,349”.
- c. In paragraph (c)(1), remove the number “\$416” and add, in its place, the number “\$510”; in paragraph (c)(3), remove the number “\$70” and add, in its place, the number “\$86”; and, also in paragraph (c)(3), remove the number “\$1,100” and add, in its place, the number “\$1,349”.

§ 401.428 [Amended]

- 6. In § 401.428, remove the number “\$424” and add, in its place, the number “\$520”.

Dated: February 7, 2007.

C.E. Bone,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention.

[FR Doc. E7-3061 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-15-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 98-153; FCC 03-33]

Ultra-Wideband Transmission Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Commission adopted new rules on the labeling of digital television receivers and other consumer electronics receiving devices. Certain rules contained new modified information collection requirements and

were published in the **Federal Register** on October 27, 2000. This document announces the effective date of these published rules.

DATES: The amendment to § 15.525 (b) and (e) published at 68 FR 19746, April 22, 2003, became effective on April 5, 2006.

FOR FURTHER INFORMATION CONTACT: Nancy J. Brooks, Office of Engineering and Technology, Policy and Rules Division, (202) 418-2454.

SUPPLEMENTARY INFORMATION: On April 5, 2006, the Office of Management and Budget (OMB) approved the information collection requirements contained in Section 15.525 (a) and (e), pursuant to OMB Control No. 3060-1015. Accordingly, the information collection requirements contained in these rules became effective on April 5, 2006.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7-3060 Filed 2-22-07; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216044-6044-01; I.D. 022007A]

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 allow

full harvest of 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 20, 2007, through 1200 hrs, A.l.t., February 22, 2007.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., March 7, 2007.

ADDRESSES: Send comments to Sue Salvesson, 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 630pollock1@noaa.gov and include in the subject line of the e-mail comment the document identifier: “g63plkro3” (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), and reopened on February 12, 2007 and closed on February 14, 2007 (72 FR 7353, February 15, 2007).

NMFS has determined that approximately 2,864 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 22, 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 16, 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 March 7, 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 20, 2007.

James P. Burgess,

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

[FR Doc. 07-827 Filed 2-20-07; 2:36 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216045-6045-01; I.D. 021607K]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processor Vessels Using Pot 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 pot gear in the Bering Sea and Aleutian Islands (BSAI) management area. This action is necessary to prevent exceeding the A season allowance of the 2007 Pacific cod total allowable catch (TAC) specified for catcher processor vessels using pot gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 20, 2007, through 1200 hrs, A.l.t., September 1, 2007.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone 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 pot gear in the BSAI is 1,331 metric tons (mt) 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 Regional Administrator finds that the A season allowance of the 2007 Pacific cod TAC allocated to catcher processor vessels using pot gear in the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher processor vessels using pot 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 pot 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 16, 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 16, 2007.

James P. Burgess,

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

[FR Doc. 07-828 Filed 2-20-07; 2:36 pm]

BILLING CODE 3510-22-S

Proposed Rules

Federal Register

Vol. 72, No. 36

Friday, February 23, 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-2006-26691; Directorate Identifier 2006-CE-88-AD]

RIN 2120-AA64

Airworthiness Directives; REIMS AVIATION S.A. Model F406 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

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

During maintenance, cracks have been discovered about the left and right rib at the connection of the center wing and the fuselage localized at the fuselage station FS160.80. Cracks spread in the rib could result in structural failure.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by March 26, 2007.

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

- *DOT Docket Web Site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.
- *Fax:* (202) 493-2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room 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.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://dms.dot.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647-5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri, 64106; telephone: (816) 329-4144; fax: (816) 329-4090.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. The streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2006-26691; Directorate Identifier 2006-CE-88-AD" at the beginning of

your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The Direction générale de l'aviation civile (DGAC), which is the aviation authority for France, has issued AD No. F-2004-114 R1 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

During maintenance, cracks have been discovered about the left and right rib at the connection of the center wing and the fuselage localized at the fuselage station FS160.80. Cracks spread in the rib could result in structural failure.

The MCAI requires:

- * * * realization of an access door and improvement of the fairing installation to facilitate the inspection of the ribs and a visual inspection on the ribs.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

REIMS AVIATION S.A. has issued REIMS AVIATION INDUSTRIES Service Bulletin No. F406-54 REV1, dated November 9, 2004. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 7 products of U.S. registry. We also estimate that it would take about 70 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$80 per work-hour. Required parts would cost about \$4,750 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$72,450, or \$10,350 per product.

In addition, we estimate that any necessary follow-on actions would take about 10 work-hours and require parts costing \$1,000, for a cost of \$1,800 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations

for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We 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 this 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.

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 FAA amends § 39.13 by adding the following new AD:

REIMS AVIATION S.A.: Docket No. FAA-2006-26691; Directorate Identifier 2006-CE-88-AD.

Comments Due Date

(a) We must receive comments by March 26, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to REIMS AVIATION S.A. Model F406 airplanes, serial numbers

F406-0001 through F406-0089 and serial number F406-0091, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 57: Wings.

Reason

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

During maintenance, cracks have been discovered about the left and right rib at the connection of the center wing and the fuselage localized at the fuselage station FS160.80. Cracks spread in the rib could result in structural failure.

Actions and Compliance

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

(1) Within the next 600 hours time-in-service or the next 12 months after the effective date of this AD, whichever occurs first, and thereafter repetitively during a period not to exceed 12 months, inspect the ribs in accordance with REIMS AVIATION INDUSTRIES Service Bulletin No. F406-54 REV 1, dated November 9, 2004.

(2) If cracks are found during any inspection required by this AD, before further flight, do the actions prescribed in chapters 1D and 2E of the REIMS AVIATION INDUSTRIES Service Bulletin No. F406-54 REV 1, dated November 9, 2004.

Note 1: We have established the repetitive inspection times of this AD so that they may coincide with annual inspections.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, ATTN: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4144; fax: (816) 329-4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Related Information

(h) Refer to MCAI Direction générale de l'aviation civile (DGAC), which is the aviation authority for France, AD No. F-2004-114 R1, dated January 5, 2005; and REIMS AVIATION INDUSTRIES Service Bulletin No. F406-54 REV 1, dated November 9, 2004, for related information.

Issued in Kansas City, Missouri, on February 15, 2007.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7-3101 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2006-26364; Airspace Docket No. 06-ANM-12]

Proposed Establishment of Class E Airspace; Beaver, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Beaver, UT. Additional controlled airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Beaver Municipal Airport. The FAA is proposing this action to enhance the safety and management of aircraft operations at Beaver Municipal Airport, Beaver, UT.

DATES: Comments must be received on or before April 9, 2007.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify FAA Docket No. FAA-2006-26364; Airspace Docket No. 06-ANM-12, at the beginning of your comments. You may also submit comments through the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Ed Haeseker, Federal Aviation Administration, Western Service Area Office, System Support Group, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 917-6714.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views,

or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2006-26364 and Airspace Docket No. 06-ANM-12) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at <http://dms.dot.gov>.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2006-26364 and Airspace Docket No. 06-ANM-12". The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at <http://dms.dot.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.faa.gov> or the **Federal Register's** web page at <http://www.gpoaccess.gov/fr/index.html>.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Area, System Support Group, 1601 Lind Avenue, SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267-9677, for a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace at Beaver, UT. Controlled airspace is necessary to accommodate aircraft using the new RNAV (GPS) SIAP at Beaver Municipal Airport. This action would enhance the safety and management of aircraft operations at Beaver Municipal Airport, Beaver, UT.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9P, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM UT, E5 Beaver, UT [New]

Beaver Municipal Airport, UT
(Lat. 38°13'51" N., long. 112°40'31" W.)
Bryce Canyon VORTAC
(Lat. 37°41'21" N., long. 112°18'14" W.)

That airspace extending upward from 700 feet above the surface within a 5.0 mile radius of Beaver Municipal Airport and within 3 miles each side of the 261°T/247°M bearing from the Airport extending from the 5.0 mile radius to 14.0 miles west of the Airport, and that airspace extending upward from 1,200 feet above the surface beginning at lat. 38°19'24" N., long. 113°30'00" W.; thence east on V–244 to lat. 38°22'22" N., long. 112°37'47" W.; thence south on V–257 to BRYCE CANYON VORTAC; thence west on V–293 to lat. 37°56'30" N., long. 113°00'00" W.; to point of beginning.

* * * * *

Issued in Seattle, Washington, on February 12, 2007.

Clark Desing,

Manager, System Support, Western Service Area.

[FR Doc. E7–3050 Filed 2–22–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket FAA 2006–25997; Airspace Docket 06–ANM–5]

Proposed Revision of Class E Airspace; Redmond, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Redmond, OR. Additional controlled airspace is necessary to accommodate aircraft using the new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAP) at City-County Airport, Madras, OR. This change is necessary for the safety of Instrument Flight Rules (IFR) aircraft

executing the new SIAP at City-County Airport.

DATES: Comments must be received on or before April 9, 2007.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify FAA Docket No. FAA–2006–25997 and Airspace Docket No. 06–ANM–5, at the beginning of your comments. You may also submit comments through the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Ed Haeseker, Federal Aviation Administration, Western Service Area Office, 1601 Lind Avenue SW., Renton, WA, 98055–4056; telephone (425) 227–2527.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2006–25997 and Airspace Docket No. 06–ANM–5) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at <http://dms.dot.gov>.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: “Comments to FAA Docket No. FAA–2006–25997 and Airspace Docket No. 06–ANM–5.” The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned

with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at <http://dms.dot.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at <http://www.faa.gov> or the **Federal Register's** web page at <http://www.gpoaccess.gov/fr/index.html>.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Western En Route and Oceanic Area Office, Airspace Branch, 1601 Lind Avenue, SW., Renton, WA 98055.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace at Redmond, OR. Additional controlled airspace is necessary to accommodate aircraft using the new RNAV (GPS) SIAP at City-County Airport, Madras, OR. This controlled airspace is necessary for the safety of IFR aircraft executing the new SIAP at City-County Airport.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9P, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated

impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006 is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

ANM OR E5 Redmond, OR [Revised]

Redmond, Roberts Field, OR
(Lat. 44°15'15" N, long. 121°09'00" W)
City-County Airport, Madras, OR
(Lat. 44°40'13" N, long. 121°09'19" W)
Deschutes VORTAC
(Lat. 44°15'10" N, long. 121°18'13" W)

That airspace extending upward from 700 feet above the surface within 1.8 miles north and 11.8 miles south of the Deschutes VORTAC 059 radial to 28.8 miles east of the VORTAC, and within 1.8 miles each side of the 230 bearing from the Roberts Field Airport extending 8.7 miles southwest of the airport, and within 1.8 miles each side of Deschutes VORTAC 162 radial extending from the VORTAC to 4.3 miles south of the VORTAC, and within 1.8 miles each side of the Deschutes VORTAC 281 radial extending from the VORTAC to 4.3 miles west of the VORTAC, and within 3.5 miles west and 7.0 miles east of the Deschutes VORTAC 014 radial extending from 9.5 miles north of the VORTAC to 30.5 miles north; that airspace extending upward from 1,200 feet above the surface within a 32.2-mile radius of the VORTAC between the 006 and 048 radials, within a 27-mile radius of the VORTAC between the 048 radial and a line 5.3 miles

west of and parallel to the 189 radial; that airspace extending upward from 1,700 feet above the surface within a line beginning at Deschutes VORTAC extending north on V–25 to V–112, east on V–112 to V–4, southeast on V–4 to V–357, southwest on V–357 to V–122, west on V–122 to V–452, northwest on V–452 to V–269, east on V–269 to the Deschutes VORTAC.

* * * * *

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

Clark Desing,

Manager, System Support, Western Service Area.

[FR Doc. E7–3053 Filed 2–22–07; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2004–WI–0002; FRL–8280–5]

Federal Implementation Plan Under the Clean Air Act for Certain Trust Lands of the Forest Country Potawatomi Community Reservation if Designated as a PSD Class I Area; State of Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of public hearings and extension of the comment period.

SUMMARY: The EPA is announcing two public hearings on our proposed “Federal Implementation Plan Under the Clean Air Act for Certain Trust Lands of the Forest Country Potawatomi Community Reservation if Designated as a PSD Class I Area; State of Wisconsin.” We are also extending the comment period from January 17, 2007, until April 27, 2007, 30 days from the second public hearing. This proposed rulemaking was published in the **Federal Register** on December 18, 2006 (71 FR 75694), and proposes to promulgate a Federal Implementation Plan (FIP) if it approves the Forest Country Potawatomi (FCP) Community’s request to redesignate certain trust lands as a Class I area under the Prevention of Significant Deterioration (PSD) program.

DATES: *Public Hearing.* The first public hearing will be held in Crandon, Wisconsin, at the Forest Country Potawatomi Executive Building, starting at 6 p.m. CDT on March 27, 2007, and will continue until 8:30 p.m. The second public hearing will be held at the Crandon Community Building in Crandon, Wisconsin, starting at 2 p.m.

CDT on March 28, 2007 and will continue until 4:30 p.m.

Comments. Comments on the proposed rulemaking must be received on or before April 27, 2007.

ADDRESSES: *Public Hearing.* The March 27, 2007, public hearing will be held at the Forest County Potawatomi Executive Building, 5416 Everybody’s Road, in Crandon, Wisconsin, and the March 28, 2007, public hearing will be held at the Crandon Community Building, 601 West Washington Street, Crandon, Wisconsin.

Comments. Submit your comments, identified by Docket ID No. EPA–R05–OAR–2004–WI–0002 by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- E-mail: *a-and-r-docket@epamail.epa.gov.*
- Fax: 202–566–1741.
- Mail: Attention Docket ID No. EPA–R05–OAR–2004–WI–0002, U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, Northwest, Mailcode: 6102T, Washington, DC 20460. Please include a total of 2 copies.

- Hand Delivery: U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, Northwest, Room 3334, Washington, DC 20004, Attention Docket ID No. EPA–R05–OAR–2004–WI–0002. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID No. EPA–R05–OAR–2004–WI–0002. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the

Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the U.S. Environmental Protection Agency, Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

SUPPLEMENTARY INFORMATION:

I. General Information

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

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404-02), U.S. EPA, Research Triangle

Park, NC 27711, Attention Docket ID No. EPA-HQ-OAR-2003-0076.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

B. Where Can I Get a Copy of This Document and Other Related Information?

In addition to being available in the docket, an electronic copy of this notice will also be available on the World Wide Web. Following signature by the Regional Administrator, a copy of this notice will be posted at <http://www.epa.gov/nsr>.

C. What Will Occur at the Public Hearings?

The public hearings will provide interested parties the opportunity to present data, views, or arguments concerning this proposed change. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the hearing.

Dated: February 13, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.
[FR Doc. 07-826 Filed 2-22-07; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3800

[**WO-620-1430-00-24 1A**]

RIN 1004-AD69

Surface Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This advance notice of proposed rulemaking is related to the Bureau of Land Management (BLM) surface management regulations for mining operations authorized by the Mining Law. In a previous Federal district court proceeding, environmental groups challenged the BLM's regulations on surface management under the Mining Law in 43 CFR subpart 3809, issued by the Department in 2001, in part, because the regulations did not require fair market value payment for the use of Federal lands for mining operations when the lands are "invalidly claimed" or unclaimed under the Mining Law. For the most part, the court upheld the 3809 regulations, but remanded them in part to the Department "for evaluation, in light of Congress's expressed policy goal for the United States to 'receive fair market value of the use of the public lands and their resources.'" This advance notice of proposed rulemaking is intended to assist the BLM in the evaluation ordered by the Court.

DATES: You must submit your comments by April 24, 2007. The BLM may not necessarily consider or include in the Administrative Record for the advance notice of proposed rulemaking comments that the BLM receives after the close of the comment period or comments delivered to an address other than those listed below (see **ADDRESSES**).
ADDRESSES: *Mail:* Director (630), Bureau of Land Management, U.S. Department of the Interior, Mail Stop 401 LS, 1849 C St., NW., Washington, DC 20240, Attention: 1004-AD69.

Personal or messenger delivery: 1620 L Street, NW., Washington, DC 20036.

Internet e-mail:
comments_washington@blm.gov
(include "Attn: 1004-AD69"). *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions at this Web site.

FOR FURTHER INFORMATION CONTACT: Scott Haight at (406) 538-1930, for information relating to the surface management program or the nature of

the notice, or Ted Hudson at (202) 452-5042 for information relating to the rulemaking process generally. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8330, 24 hours a day, seven days a week, to contact the above individuals.

SUPPLEMENTARY INFORMATION:

- I. Public Comment Procedures
- II. Background
- III. Analysis and Public Inquiry
 - A. "Invalidly Claimed" Lands
 - B. Lands on Which Claims of Unknown Validity are Located
 - C. Unclaimed Lands

I. Public Comment Procedures

Please submit e-mail comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: 1004-AD69" and your name and return address in your e-mail message.

You may examine documents pertinent to this advance notice of proposed rulemaking at the L Street address.

A. How do I comment on the notice?

If you wish to comment, you may submit your comments by any one of several methods:

- You may mail comments to Director (630), Bureau of Land Management, Administrative Record, Room 401 LS, Director (630), Mail Stop 401 LS, Bureau of Land Management, U.S. Department of the Interior, 1849 C Street, NW., Washington, DC 20240, Attn: 1004-AD69.
- You may deliver comments to Room 401, 1620 L Street, NW., Washington, DC 20036.
- You may access and comment on the notice at the Federal eRulemaking Portal by following the instructions at that site (see **ADDRESSES**).
- You may also comment via e-mail to comments_washington@blm.gov. If you do not receive a confirmation that we have received your electronic message, contact us directly (202) 452-5030.

Please make your comments as specific as possible by confining them to issues for which comments are sought in this notice, and explain the bases for your comments.

The comments and recommendations that will be most useful and likely to influence agency decisions are:

1. Those supported by quantitative information or studies; and
2. Those that include citations to, and analyses of, the applicable laws and regulations.

The BLM may not necessarily consider or include in the

Administrative Record for the notice comments that we receive after the close of the comment period (see **DATES** or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES**: "Personal or messenger delivery" during regular hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays.

C. Can my name and address be kept confidential?

Before including your address, telephone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

The BLM will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspections in their entirety.

II. Background

In the Federal Land Policy and Management Act ("FLPMA"), Congress declared 13 policy goals for the public lands, among which are that:

- The public lands "be managed in a manner which recognizes the Nation's need for domestic sources of minerals" (43 U.S.C. 1701(a)(12)), and
- "[T]he United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute" (43 U.S.C. 1701(a)(9)). Following these 13 policy declarations, Congress stated that the "policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation and shall then be construed as supplemental to and not in derogation of the purposes for which public lands are administered under other provisions of law." (43 CFR 1701(b)).

Commercial mining is one of the purposes for which public lands are administered. Congress declared in 1970 that "it is the continuing policy of the Federal Government in the national

interest to foster and encourage private enterprise in (1) the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries, (2) the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security and environmental needs, (3) mining, mineral, and metallurgical research, including the use and recycling of scrap to promote the wise and efficient use of our natural and reclaimable mineral resources, and (4) the study and development of methods for the disposal, control, and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment that may result from mining or mineral activities." (30 U.S.C. 21a). The Secretary of the Interior has the statutory responsibility to carry out this national policy when exercising his authority under Federal laws such as FLPMA.

In *Mineral Policy Center v. Norton*, 292 F. Supp. 2d 30 (D.D.C. 2003), plaintiffs challenged the BLM's surface management regulations for hardrock mining, which are found at 43 CFR subpart 3809. One of the arguments that the plaintiffs made was that, on lands on which there are no valid mining claims, the BLM should be charging fair market value for use of the public lands for mining operations. *Mineral Policy Center*, 292 F. Supp. 2d at 40.

In response, the BLM argued that, "the 'otherwise provided for by statute' exception set forth in FLPMA section 102(a)(9) exempts mining operations on both claimed and unclaimed lands from the fair market value policy, where such operations are conducted under the Mining Law." (Federal Defendants' Consolidated Motion for Summary Judgment at page 38).

Nevertheless, the court concluded that "[o]perations neither conducted pursuant to valid mining claims nor otherwise explicitly protected by FLPMA or the Mining Law (*i.e.*, exploration activities, ingress and egress, and limited utilization of mill sites) must be evaluated in light of Congress's expressed policy goal for the United States to 'receive fair market value of the use of the public lands and their resources'" (*Mineral Policy Center*, 292 F. Supp. 2d at page 51). The court then remanded the regulations to the Department to evaluate the competing priorities set forth in FLPMA as applied to invalidly claimed or unclaimed lands "in light of Congress's expressed policy

goal for the United States to 'receive fair market value of the use of public lands and their resources'” (*id.* at pages 51 and 57).

III. Analysis and Public Inquiry

The fair market value policy in FLPMA applies “unless otherwise provided for by statute” (43 U.S.C. 1701(a)(9)). Based on this exception, the court in *Mineral Policy Center* concluded that the Mining Law authorizes operations, including possession, occupancy, and mineral extraction activities, on valid mining claims without payment of fair market value for that use (292 F. Supp. 2d at pages 47 and 51). The court also concluded that the Mining Law authorizes exploration activities, mill site use in association with valid claims, and ingress and egress to valid claims, without payment of fair market value for that use (*id.*). The court instructed the BLM to evaluate the application of FLPMA’s competing priorities, in light of the policy goal to receive fair market value for the use of the public land, to mining activities that amount to more than initial exploration activities conducted on invalidly claimed or unclaimed lands (*id.* at pages 46 and 50).

A. “Invalidly Claimed” Lands

The Mining Law establishes the parameters under which mining claimants may locate and hold a mining claim (30 U.S.C. 23, 28). It is without question that “in order to create valid rights or initiate a title as against the United States a discovery of mineral is essential” (*Union Oil Co. v. Smith*, 249 U.S. 337, 346 (1919)). Nevertheless, “while discovery is the indispensable fact and the marking and recording of the claim dependent upon it, yet the order of time in which these acts occur is not essential in the acquisition from the United States of the exclusive right of possession of the discovered minerals or the obtaining of a patent therefor, but that discovery may follow after location and give validity to the claim as of the time of discovery, provided no rights of third parties have intervened.” (*Id.*)

Because mining claims are self-initiated and may be located before the claimant discovers a valuable mineral deposit, the BLM cannot know whether an unpatented mining claim on the public lands is valid unless and until it determines the validity of the claim. However, while the BLM has discretion to initiate a mining claim validity examination at any time before a patent is issued, as a practical matter, it determines or verifies claim validity only rarely. *Cameron v. United States*,

252 U.S. 450, 460 (1920); Mark Squillace, *The Enduring Vitality of the General Mining Law of 1872*, 18 *Envtl. L. Rep.* 10,261, 10,266 (1988) (stating that the government rarely considers the validity of an unpatented mining claim). See generally *Legal Requirements for Determining Mining Claim Validity Before Approving a Mining Plan of Operations*, M-37012 (Nov. 14, 2005).

The BLM cannot feasibly embark on a program to make technical determinations of the validity of all unpatented mining claims. The administrative cost per mining claim of conducting a validity determination, including a field examination and an economic analysis, and carrying out a contest hearing, if necessary, is substantial. The BLM estimates that the cost per mining claim for a full validity determination, including an administrative contest hearing, ranges between \$12,000 and \$80,000. There are over 250,000 active mining claims on the public lands. Conducting validity determinations for all 250,000 mining claims would exceed the BLM’s annual operating budget many times over.

Even if the BLM was appropriated sufficient funds and was able to locate and employ enough qualified mineral examiners to engage in such an extensive program, the open nature of the public lands makes the exercise futile. Mining claimants can locate mining claims only on lands that are open to the operation of the Mining Law. In rare circumstances, the lands on which mining claimants have located mining claims may be subsequently withdrawn from the operation of the Mining Law. However, almost all of the 250,000 existing mining claims are on public lands that remain open to the operation of the Mining Law. On these open lands, a validity determination is an inefficient use if not an outright waste of government resources, because nothing stops the claimant from immediately relocating a new claim on the same lands covered by the invalidated mining claim.

In light of these practical administrative considerations, the BLM reasonably focuses its limited appropriations on conducting validity examinations where they are required. The BLM’s regulations at 43 CFR 3809.100 and 3862.1-1 require a complete validity determination only if a claimant:

- (1) Proposes mining operations on lands that were withdrawn or segregated from the operation of the Mining Law, or
 - (2) Has applied for a patent.
- No law requires the BLM to determine the validity of mining claims before

approving operations on lands that are open to the operation of the Mining Law (*Legal Requirements for Determining Mining Claim Validity Before Approving a Mining Plan of Operations*, M-37012 (Nov. 14, 2005)). See also, *Western Shoshone Defense Project*, 160 IBLA 32, 56 (2003) (“BLM generally does not determine the validity of the affected mining claims before approving a plan of operations”).

The BLM cannot know whether lands are “invalidly claimed” unless it has conducted a validity examination and has determined that a mining claim is in fact invalid, or unless the claim has been voided by operation of law because of the claimant’s failure to comply with an applicable annual maintenance requirement. In both instances, once a claim is void by operation of law or void because the BLM has determined that it is invalid, the claim no longer exists. Therefore, as the BLM applies it, the phrase “invalidly claimed” only covers lands on which a mining claim was formerly located that the BLM knows to be invalid because (1) The BLM has determined that the claim is invalid or (2) the claim was voided by operation of law because of the claimant’s failure to comply with annual maintenance requirements.

On withdrawn lands, the BLM does not approve mining operations for mining claims it has determined to be invalid or that have been voided by operation of law. Consequently, on withdrawn lands, since there is no authorized use of invalidated mining claims, the BLM need not consider whether it should receive fair market value for use of such “invalidly claimed” lands.

On open lands, the lands on which voided or invalidated mining claims once existed are nothing more than unclaimed lands. See section C below for further discussion regarding the use of unclaimed lands.

B. Lands on Which Claims of Unknown Validity are Located

The court’s decision in *Mineral Policy Center* did not address the use of lands on which mining claims of unknown validity exist. The parties did not brief this issue, and the court’s decision did not consider the distinction between claims that the BLM has determined to be invalid and those for which the BLM has made no validity determination. As previously noted, the court concluded that the Mining Law authorizes operations, including possession, occupancy, and mineral extraction activities, on valid mining claims without payment of fair market value for that use (*Mineral Policy Center*, 292 F.

Supp. 2d at page 51). And while the court remanded the regulations in part for the BLM to evaluate whether it should charge fair market value for the use of invalidly claimed lands, we have already explained that, on withdrawn lands, there is no authorized use of invalidated mining claims and, therefore, the BLM need not consider whether it should receive fair market value for use of such “invalidly claimed” lands. In addition, we have explained that, on open lands, the lands on which voided or invalidated mining claims once existed are nothing more than unclaimed lands, which are discussed in section C below.

What remains is the use of lands covered by mining claims of unknown validity. For the reasons described below, the BLM tentatively concludes that the use of mining claims of unknown validity for mining operations falls within the “otherwise provided for by statute” exception set forth in FLPMA’s Section 102(a)(9). Under this interpretation, the BLM may not apply FLPMA’s fair market value policy to approved mining operations that occur on mining claims of unknown validity. We solicit your views on this interpretation and the analysis set forth below.

As explained above, mining claims can be located before or after a claimant discovers a valuable mineral deposit (*Union Oil Co. v. Smith*, 249 U.S. at 346). Until the BLM examines the validity of a mining claim, it does not know whether a given claim is valid. The BLM cannot simply assume that a mining claim of unknown validity is invalid. The BLM can invalidate a claim without a validity determination only if the claim is void by operation of law because of a mining claimant’s failure to comply with particular statutory filing or fee requirements (30 U.S.C.A. 28i (West Supp. 2006); 43 U.S.C. 1744(c)). Otherwise, the BLM must conduct a validity determination and, except in rare instances involving undisputed facts, contest a claim’s validity by giving the claimant notice and an opportunity for a hearing before it can declare a claim invalid. *Cameron v. United States*, 252 U.S. 450, 460 (1920) (“so long as the legal title remains in the government it does have power, after proper notice and upon adequate hearing, to determine whether the claim is valid and, if it be found invalid, to declare it null and void”).

The BLM manages mining claims of unknown validity as active mining claims under the Mining Law, as ratified repeatedly by Congress. In FLPMA, Congress recognized the existence of these active mining claims of unknown

validity that are located under the Mining Law. In Section 314 of FLPMA (43 U.S.C. 1744), Congress amended the Mining Law to require mining claimants—

(1) To record each mining claim with the BLM by filing a copy of the notice of location, and

(2) to file annual proof of having conducted the assessment work that is required by the Mining Law for each mining claim.

Claimants are not required to demonstrate claim validity before complying with these filing requirements. Nor is the BLM required to determine the validity of any mining claim before it accepts these filings. Congress applied these requirements to all mining claims located under the Mining Law regardless of the validity of the claims, thereby allowing claimants to maintain mining claims of unknown validity. At the same time, by making these filings, a claimant does not make valid a claim that is not otherwise valid under applicable law (43 U.S.C. 1744(d)).

In 1992, Congress continued to recognize the existence of active mining claims of unknown validity when it passed the Department of the Interior and Related Agencies Appropriations Act of 1993, (Pub. L. 102–381, 106 Stat. 1374 (1992) (Appropriations Act)). The Appropriations Act required holders of unpatented mining claims to pay an annual rental fee of \$100 per claim for 1993 and 1994, without regard to the underlying validity of the claims. Rent is defined as a “fixed periodical return made by a tenant or occupant of property to the owner for the possession or use thereof” (Merriam-Webster’s Collegiate Dictionary 991 (10th ed. 1998)). Congress has extended this rental or maintenance fee requirement four times in subsequent legislation. See 107 Stat. 312, 405–407 (1993); Public Law 105–240, Section 116 (1998); Public Law 107–63 (2001) (codified at 30 U.S.C.A. 28f. (West Supp. 2002)); Public Law 108–108 (2003) (codified at 30 U.S.C.A. 28f. (West Supp. 2006)). The currently applicable law requires the fee payment until 2008. Congress also gave the BLM authority to make periodic adjustments to this fee based on changes in the Consumer Price Index (30 U.S.C.A. 28j(c) (West Supp. 2006)). In 2004, the BLM increased the fee from \$100 to \$125 (69 FR 40294, July 1, 2004). Since 1992, the BLM has collected over \$300 million from mining claimants in fee payments.

Because Congress allows mining claimants to locate mining claims under the Mining Law and maintain them by making annual payments to the BLM

while the validity of the claims is unknown, the use of these mining claims for mining operations falls within the “otherwise provided for by statute” exception set forth in FLPMA’s Section 102(a)(9). Therefore, the BLM has tentatively concluded that it may not apply FLPMA’s fair market value policy to approved mining operations that occur on mining claims of unknown validity.

C. Unclaimed Lands

“Unclaimed lands” are lands on which no mining claims are located. The BLM is not aware of any instance in which a miner or mining company would use unclaimed lands to conduct mining and mineral production operations or related uses. The BLM is not aware of any miner or mining company that would be willing to invest money or resources in the development of a mine without some tenure in the land in the form of a mining claim or mill site. If a mining company were to file a plan of operations to develop a mine on unclaimed lands, a third party could easily locate mining claims over the area and assert adverse rights to the lands. Therefore, it is the BLM’s tentative conclusion that no one uses unclaimed lands for mining operations that go beyond exploration activities on the public lands.

Nevertheless, the BLM requests public comments regarding whether any miners or mining companies in fact use unclaimed lands for such mining operations. The BLM asks for detailed examples of any such use. After the BLM receives and considers these comments, it will determine whether further evaluation of FLPMA’s competing priorities is needed with regard to any mining operations that go beyond exploration activities on unclaimed lands.

Author

The principal author of this notice is Scott Haight of the Montana State Office, assisted by Ted Hudson of the Division of Regulatory Affairs, Washington Office, Bureau of Land Management, and Karen Hawbecker, Office of the Solicitor, Department of the Interior.

Dated: February 5, 2007.

C. Stephen Allred,

Assistant Secretary of the Interior.

[FR Doc. E7–3077 Filed 2–22–07; 8:45 am]

BILLING CODE 4310–84–P

ENVIRONMENTAL PROTECTION AGENCY**48 CFR Parts 1523 and 1552**

[EPA-HQ-OARM-2007-0102; FRL 8280-4]

EPAAR Prescription and Solicitation Provision—EPA Green Meetings and Conferences**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: EPA is proposing to revise the EPA Acquisition Regulation (EPAAR) Subparts 1523 and 1552 to establish policy and procedures for acquiring environmentally preferable meeting and conference services. This proposed EPAAR revision will add a prescription and solicitation provision that Agency employees will be required to use when soliciting quotes or offers for meeting and conference space and services. The solicitation provision will require meeting and conference venues to provide EPA with information about environmentally preferable features and practices in use at their facilities. As stated in the Federal Acquisition Regulation (FAR), environmentally preferable products and services are those “that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose.” The intent of this rule is to ensure that environmental preferability is considered in each purchase of commercial meeting and conference services, which furthers the EPA mission to protect human health and the environment.

This action revises the EPAAR, but does not impose any new requirements on Agency contractors. The procedure will require Agency employees to request information from prospective meeting venues about their environmentally preferable (green) practices for consideration in the award decision, thus encouraging the industry to adopt more of these practices so that we will be more likely to do business with them. This rule imposes no requirement or standard that a facility must meet in order to do business with us.

DATES: Interested parties should submit comments in writing on or before March 26, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OARM-2007-0102, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *Email:* oei.docket@epa.gov.

- *Mail:* EPA Docket Center,

Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Attention Docket ID No. EPA-HQ-OARM-2007-0102.

- *Hand Delivery:* EPA Docket Center, Environmental Protection Agency, OEI Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OARM-2007-0102. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

FOR FURTHER INFORMATION CONTACT:

Tiffany Schermerhorn, Policy, Training and Oversight Division, Office of Acquisition Management, Mail Code 3802R, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; e-mail address: schermerhorn.tiffany@epa.gov, telephone (202) 564-9902.

SUPPLEMENTARY INFORMATION:**I. General Information**

The proposed EPAAR additions are necessary so that the Agency can ensure that environmental preferability is considered in all purchases of commercial meeting and conference services. The new solicitation provision will not impose a substantial additional burden on meeting venues since they currently submit quotes or offers to the Agency in response to solicitations for meeting and conference services, and the rule will allow the information to be obtained electronically or orally when appropriate to the acquisition. The EPAAR changes are consistent with the FAR.

II. Statutory and Executive Order Reviews*A. Executive Order 12866*

It has been determined that this rule is not a “significant regulatory action” under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule does not impose any new information collection or other requirements on Agency contractors. Collection of information from prospective contractors via Agency solicitation is covered under existing active clearances OMB 9000-0136, Commercial Item Acquisitions—FAR Sections Affected: Part 12; 52.212-1 and 52.212-3, a Federal Acquisition Regulation clearance, in the case of commercial item simplified acquisitions; and OMB 2030-0006, Invitations for Bids and Request for Proposals (IFBs and RFPs), an EPA clearance, in the case of sealed bid or negotiated procurements. These clearances allow information to be collected from a quoter or offeror with the purpose of evaluating its capabilities for performing the contract requirements. In the case of this regulation, one of EPA’s requirements is to purchase environmentally preferable meeting and conference services to the greatest extent practicable, so we will need to solicit from each facility a technical description of environmentally preferable measures it has in place.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment

rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any new requirements on small entities.

List of Subjects in 48 CFR Parts 1523 and 1552

Environmental Protection,
Government procurement.

Dated: February 16, 2007.

John C. Gherardini, III,

Acting Director, Office of Acquisition
Management.

For the reasons set forth in the preamble, chapter 15 of title 48 Code of Federal Regulations, parts 1523 and 1552 are proposed to be amended as follows:

PART 1523—ENVIRONMENTAL, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

1. The authority citation for 48 CFR part 1523 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

2. Add Subpart 1523.7 to read as follows.

Subpart 1523.7—Contracting for Environmentally Preferable Products and Services

1523.703 Policies and procedures.

1523.703-1 Acquisition of environmentally preferable meeting and conference services.

Subpart 1523.7—Contracting for Environmentally Preferable Products and Services

1523.703 Policies and procedures.

1523.703-1 Acquisition of environmentally preferable meeting and conference services.

(a) *Scope.* This section establishes policy and procedures for acquiring environmentally preferable meeting and conference services. For purposes of this section, the term "contracting officer" refers to any EPA employee with purchasing authority. For the purposes of this section, the term "meeting and conference services" refers to any purchase by an EPA employee of the use of off-site commercial facilities for an EPA event, whether the event is a meeting, conference, training session, or other purpose.

(b) *Policy.* Contracting officers must purchase environmentally preferable meeting and conference services to the greatest extent practicable.

Environmental preferability is defined at FAR 2.101. Environmental preferability shall be considered in all purchases of meeting and conference services.

(c) *Procedures for micropurchases.* The contracting officer shall request information on environmentally preferable features and practices from each meeting and conference services vendor solicited using the provision or language substantially the same as the provision at 1552.223-71.

(d) *Procedures for purchases exceeding micropurchase threshold.* The contracting officer shall request information on environmentally preferable features and practices from each meeting and conference services vendor using the provision or language substantially the same as the provision at 1552.223-71, and shall notify vendors that basis for award will be best valued with price and other factors considered. Environmental preferability must be considered among the other factors. The contracting officer shall determine the relative importance of price and other factors as appropriate to the acquisition.

(e) *Contractor support for meetings and conferences.* A contract, order, work assignment or purchasing agreement that includes contractor support for meeting and conference planning and logistics must include a green meeting and conference requirement. The contracting officer shall ensure language is included in the tasking document work statement that requires the contractor to use the provision at 1552.223-71, or language approved by the contracting officer that

is substantially the same as the provision, when soliciting quotes or offers for meeting and conference services on behalf of the EPA.

(f) *Solicitation Provision.* The contracting officer shall insert the provision or language substantially the same as the provision at 1552.223-71, EPA Green Meetings and Conferences, in solicitations for meeting and conference services. Contracting officers issuing an oral solicitation must also use the provision, though it may be provided to the vendor orally or electronically. Contractors soliciting quotes or offers for meeting and conference services on behalf of EPA shall use the provision, or language approved by the contracting officer that is substantially the same as the provision.

3. The authority citation for 48 CFR part 1552 continues to read as follows:

Authority: 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Add § 1552.223-71 to read as follows.

1552.223-71 EPA Green Meetings and Conferences.

As prescribed in 1523.703-1, insert the following provision or language substantially the same as the provision in solicitations for meetings and conference services.

EPA Green Meetings and Conferences (XXX 2007)

(a) The mission of the EPA is to protect human health and the environment. We expect that all Agency meetings and conferences will be staged using as many environmentally preferable measures as possible. Environmentally preferable means products or services that have a lesser or reduced effect on the environment when compared with competing products or services that serve the same purpose.

(b) As a potential meeting or conference provider for EPA, we require information about environmentally preferable features and practices your facility will have in place for the EPA event described in the solicitation.

(c) The following list is provided to assist you in identifying environmentally preferable measures and practices used by your facility. More information about EPA's Green Meetings initiative may be found on the Internet at <http://www.epa.gov/oppt/greenmeetings/>. Information about EPA

voluntary partnerships may be found at <http://www.epa.gov/partners/index.htm>.

(1) Do you have a recycling program? If so, please describe.

(2) Do you have a linen/towel reuse option that is communicated to guests?

(3) Do guests have easy access to public transportation or shuttle services at your facility?

(4) Are lights and air conditioning turned off when rooms are not in use? If so, how do you ensure this?

(5) Do you provide bulk dispensers or reusable containers for beverages, food and condiments?

(6) Do you provide reusable serving utensils, napkins and tablecloths when food and beverages are served?

(7) Do you have an energy efficiency program? Please describe.

(8) Do you have a water conservation program? Please describe.

(9) Does your facility provide guests with paperless check-in & check-out?

(10) Does your facility use recycled or recyclable products? Please describe.

(11) Do you provide training to your employees on these green initiatives? Please describe.

(12) What other environmental initiatives have you undertaken, including any environment-related certifications you possess, EPA voluntary partnerships in which you participate, support of a green suppliers network, or other initiatives? Include "Green Meeting" information in your quotation so that we may consider environmental preferability in selection of our meeting venue.

[FR Doc. E7-3114 Filed 2-22-07; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 021507B]

South Atlantic Fishery Management Council; Public Hearings

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

ACTION: Notification of public hearings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will convene a series of public hearings regarding Amendment 18 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic. Amendment 18 will

modify the total allowable catch (TAC) for the Atlantic migratory group king mackerel and Spanish mackerel fisheries, and change the commercial trip limits for Spanish mackerel to reflect recent changes in the fishing year.

DATES: The public hearings will be held in March 2007. See **SUPPLEMENTARY INFORMATION** for the specific dates and times of the public hearings.

Written comments must be received in the Council office (see **ADDRESSES**) by close of business on April 10, 2007.

ADDRESSES: Written comments should be sent to Bob Mahood, Executive Director, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405, or via email to MackerelAmendment18@safmc.net. Copies of the public hearing document are available from Kim Iverson at the address above or by calling 843-571-4366 or toll free at 866/SAFMC-10.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: 843-571-4366; fax: 843-769-4520; email: kim.iverson@safmc.net.

SUPPLEMENTARY INFORMATION: The Council initiated a regulatory amendment in June 2006 to adjust the TAC for both Atlantic migratory group king and Spanish mackerel following an assessment and report reflecting the need to reduce the current TACs. The Council is proposing to reduce the current annual TAC for king mackerel from 10.0 million lb (4.5 million kg) to 7.1 million lb (3.2 million kg), and for Spanish mackerel from 7.04 million lb (3.19 million kg) to 6.7 million lb (3.0 million kg). Amendment 18 was changed from a regulatory amendment to a plan amendment in September 2006 to allow more flexibility for alternatives. While the title has changed, the alternatives and information contained in the plan amendment remain the same.

Public Hearing Dates and Locations

All hearings are scheduled to begin at 6 p.m.

March 12, 2007 - Hampton Inn St. Augustine Beach, 430 A1A Beach Boulevard, St. Augustine, FL 32080; phone 904/471-4000.

March 13, 2007 - Hutchinson Island Marriott, 555 N.E. Ocean Boulevard, Stuart, FL 34996; phone 772/225-3700.

March 14, 2007 - Sombrero Cay Club Resort, 19 Sombrero Boulevard, Marathon, FL 33050; phone 305/743-2250.

March 19, 2007 - Crystal Coast Civic Center, 3505 Arendell Street, Morehead City, NC 28557; phone 252/247-3883.

March 20, 2007 - Shell Island Resort, 2700 N. Lumina Avenue, Wrightsville Beach, NC 28480; phone 910/256-8696.

March 21, 2007 - Baywatch Resort, 2701 S. Ocean Boulevard, North Myrtle Beach, SC 29582; phone 843/272-4600.

March 27, 2007 - Hampton Inn, 678 Citadel Haven Drive, Charleston, SC 29414; phone 843/573-1200.

Note: A public hearing for Amendment 18 will also be held on March 6, 2007, at 6 p.m. in conjunction with the March 5-9, 2007 meeting of the Council at the Jekyll Island Club, 371 Riverview Drive, Jekyll Island, GA 31527. Information regarding the Council meeting and hearing will be published in an upcoming **Federal Register** notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by March 9, 2007.

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

Dated: February 16, 2007.

James P. Burgess,

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

[FR Doc. E7-3126 Filed 2-22-07; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[I.D. 021507A]

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings and hearings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 137th meeting to consider and take actions on fishery management issues in the Western Pacific Region.

DATES: The 137th Council meeting and public hearings will be held on March 13 - 16, 2007. For specific times and the agenda, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The 137th Council meeting and public hearings will be held at the Ala Moana Hotel, 410 Atkinson Drive, Honolulu, HI 96814-4722; telephone: 808-955-4811.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808-522-8220.

SUPPLEMENTARY INFORMATION: In addition to the agenda items listed here, the Council will hear recommendations from other Council advisory groups. Public comment periods will be provided throughout the agenda. The order in which agenda items are addressed may change. The Council will meet as late as necessary to complete scheduled business.

Schedule and Agenda for Council Standing Committee Meetings

Tuesday, March 13, 2007

Standing Committee

1. 8 a.m. – 10 a.m. Marianas Archipelago Ecosystem Standing Committee
2. 10 a.m. – 12 noon Hawaii Archipelago Ecosystem Standing Committee
3. 1:30 p.m. – 3 p.m. American Samoa Archipelago Ecosystem Standing Committee
4. 3 p.m. – 4 p.m. Pelagics and International Ecosystem Standing Committee
5. 4 p.m. – 6 p.m. Program Planning/ Research & Executive/Budget Standing Committee

The agenda during the full Council meeting will include the items listed here.

Schedule and Agenda for Council Meeting

9 a.m. – 5 p.m. Wednesday, March 14, 2007

1. Introductions
2. Approval of Agenda
3. Approval of 135th and 136th Meeting Minutes
4. Agency Reports
- A. NMFS
 1. Pacific Islands Regional Office (PIRO)
 2. Pacific Islands Fisheries Science Center (PIFSC)
- B. NOAA General Counsel
- C. United States Fish and Wildlife Service (USFWS)
 5. Mariana Archipelago
- A. Island Area Reports
 1. Commonwealth of the Northern Mariana Islands (CNMI)
 2. Guam
- B. Enforcement Reports
 1. CNMI Enforcement Agency Report
 2. Guam Enforcement Agency Report

3. United States Coast Guard (USCG) Enforcement Report
4. NMFS Office for Law Enforcement (OLE) Report
5. Status of Violations
- C. Micronesian Challenged
- D. CNMI/Guam Bottomfish Assessment
- E. Mariana Turtle Research
- F. Federal Monitoring and Reporting Program for CNMI
- G. Mariana Community Initiatives
 1. Report on CNMI Advisor and Regional Ecosystem Advisory Council (REAC) Meetings
 2. Report on Guam Advisor and REAC Meetings
 3. Report on Guam Voluntary Data Collection Program
- H. Scientific and Statistical Committee (SSC) Recommendations
- I. Standing Committee Recommendations
- J. Public Comment
- K. Council Discussion and Action
 6. American Samoa Archipelago
- A. Island Area Reports
- B. Enforcement Reports
 1. Agency Enforcement Report
 2. USCG Enforcement Report
 3. NMFS OLE Report
 4. Status of Violations
 5. United States Cook Islands Longline Fishing Access
- C. Status of Products from American Samoa/Samoa MOU
- D. Status of Fisheries Development in American Samoa
 1. Impact to New Minimum Wage Laws
 2. Economic Study
- E. Report on Protected Species Interaction in American Samoa Longline Fishery
- F. American Samoa Turtle Research
- G. American Samoa Bottomfish Stock Assessment
- H. American Samoa Community Initiatives
 1. Advisory Group Meetings
 2. Legislative Actions
- H. SSC Recommendations
- I. Standing Committee Recommendations
- J. Public Comment
- K. Council Discussion and Action

9 a.m. 5 p.m. Thursday, March 15, 2007

9. Hawaii Archipelago
- A. Island Area Reports
- B. Enforcement Reports
 1. Agency Enforcement Report
 2. USCG Enforcement Report
 3. NMFS OLE Report
 4. Status of Violations
 5. Automatic Identification System Pilot Project Report
 6. NMFS Vessel Monitoring System (VMS) Policy
 7. Status of Electronic Logbook Reporting Certification Program

- C. Protected Resources
 1. Hawaiian Green Sea Turtle Recovery
 2. Monk Seal Fatty Acid Study
 3. Marine Mammal Advisory Committee Recommendations
- D. NOAA Updates
 1. Humpback Whale Sanctuary five-year plan
 2. Pacific Services Center
- E. Northwestern Hawaiian Islands (NWHI) Monument
 1. Hawaii Longline Transit Notification in NWHI
 2. NWHI Bottomfish
 - a. Heleuma “Anchoring”
 - b. Hoomau Hookahua “Combining” (ACTION ITEM)
- F. Hawaii Bottomfish Research, Monitoring, and Compliance Plan
- G. Status of Hawaii Bottomfish Overfishing Actions
 1. State of Hawaii Bottomfish Action
 2. Federal Actions (ACTION ITEM)
- H. Hawaii Community Initiatives
 1. Hoohanohano I Na Kupuna Puwale III Report
 2. Report on Development of Hawaii CDP
 3. Report on Hawaii Community Meetings
 4. Legislative Actions
- I. SSC Recommendations
- J. Standing Committee Recommendations
- K. Public Hearing
- L. Council Discussion and Action
 8. Pelagic and International Fisheries
- A. Pelagic Total Allowable Catch (TAC) Framework (ACTION ITEM)
- B. International Longline Shark Study
- C. Longline Management
 1. Guam Longline Area Closure (ACTION ITEM)
 2. Hawaii Swordfish Effort Limit Modification (ACTION ITEM)
- D. American Samoa and Hawaii Longline Reports
- E. South Pacific Tuna Treaty and United States Longliners
- F. Hawaii Longline Fishery and United Nations Food and Agriculture Organization (FAO) Code of Conduct
- G. International Fisheries Management
 1. Western and Central Pacific Fisheries Commission III, Apia, Samoa, Report
 2. Tuna Regional Fishery Management Organizations Meeting, Kobe Japan, Report
 3. Bycatch Consortium, Honolulu, Hawaii, Report
 4. Inter-American Tropical Tuna Commission Bigeye Tuna/Yellowfin Tuna Management Meeting, La Jolla, California, Report
- H. SSC Recommendations
- I. Standing Committee Recommendations

- J. Public Hearing
 - K. Council Discussion and Action
- 9 a.m. – 5 p.m. Friday, March 16, 2007
- 9. Program Planning
 - A. Magnuson Act Reauthorization
 - 1. Environmental Review Process (PUBLIC HEARING)
 - 2. Other Provisions
 - B. Report on State Disaster Relief Program
 - C. Council Aquaculture Policy
 - D. Status of Fishery Management Actions
 - E. Education and Outreach Report
 - F. Standing Committee Recommendations
 - G. Public Comment
 - H. Council Discussion and Action
 - 10. Administrative Matters & Budget
 - A. Financial Reports
 - B. Administrative Reports
 - C. Meetings and Workshops
 - D. Council Family Changes
 - 1. Advisory Group Changes
 - E. Standard Operating Procedures and Policies (SOPP)
 - F. Council Committee Assignments
 - G. Standing Committee Recommendations
 - H. Public Comment
 - I. Council Discussion and Action
 - 11. Other Business
 - A. Next Meeting

Background Information

1. NWHI Monument-Hoomau Hookahua "Combining" (ACTION ITEM)

On June 15, 2006, President George W. Bush issued Presidential Proclamation No. 8031 establishing the Northwestern Hawaiian Islands Marine National Monument (Monument). The proclamation set apart and reserved the Northwestern Hawaiian Islands for the purpose of protecting the historic objects, landmarks, prehistoric structures and other objects of historic or scientific interest that are situated upon lands owned and controlled by the Federal Government of the United States. In establishing the NWHI monument, Proclamation No. 8031 assigns primary management responsibility of marine areas to the Secretary of Commerce, through the National Oceanic and Atmospheric Administration (NOAA) in consultation with the Secretary of the Interior. The Proclamation also directed the Secretaries to promulgate regulations to prohibit access to the Monument, restrict fishing in Ecological Reserves and Special Preservation Areas, establish annual catch limits for bottomfish and pelagic species, prohibit anchoring, and require VMS on all vessels, among other management

measures. Regulations implementing these provisions were published at 71 FR 51134 on August 29, 2006.

At its 135th Council meeting held in October 2006, the Council was presented with information on the effects of measures on the NWHI bottomfish fishery and its operations, including the over representation of Ecological Reserves and Special Preservation Areas in the Hoomalu Zone (Both of the Ecological Zones and seven of the nine Special Preservation Areas are located in the Hoomalu Zone). As of February 2007, NOAA has not conducted an environmental review to assess the biological or social impacts of the monument designation. At its 137th Meeting, the Council may consider taking action to alleviate the of the Monument designation by considering options to alter the zoning structure of the NWHI permit areas.

2. Hawaii Bottomfish Overfishing-Federal Action (ACTION ITEM)

On May 27, 2005, NMFS informed the Council that the Hawaii Archipelagic bottomfish stock complex, which occurs in both Federal and state jurisdictions, was determined to be experiencing overfishing, with the primary problem being excess fishing mortality in the MHI. The Council prepared and transmitted to NMFS in May, 2006, Amendment 14 to the Bottomfish FMP, which proposed to close waters of Penguin and Middle Banks to fishing for bottomfish in order to end overfishing, however this action has not been processed by NMFS. Since the amendment transmittal, several notable and potentially significant things have occurred which may affect management of the bottomfish fishery in the Hawaiian Archipelago including: (A) a phase-out of the bottomfish fishery by 2011 in the NWHI as mandated through the Presidential Monument designation; (B) a new stock assessment was completed by PIFSC which concluded the required reduction in fishing mortality should be 24 percent rather than 15 percent as previously indicated to end overfishing; (C) Congress passed the newly reauthorized Magnuson-Stevens Act which contains new provisions that will affect management of the bottomfish fishery, including a requirement to move towards management incorporating total allowable catch (TAC) levels for all fisheries and a provision requiring State consistency with Federal fishery management plans; and (D) the State further revised their proposed new Bottomfish Restricted Areas in July 2006 resulting in reduced mortality reduction benefits.

In light of the events described above, the Council will consider several new management options to end overfishing in the bottomfish fishery. Options include a seasonal closure for both the commercial and recreational fishery which results in a 24 percent reduction of mortality; several different alternatives for management of the fishery using a total allowable catch (TAC) designed to result in the 24 percent reduction of fishing mortality including management using a TAC in combination with a limited access program, using a TAC with individual fishing quota (IFQ) allocation; using a TAC for the commercial sector and trip limits for the recreational sector; and combining a TAC with an annual seasonal closure during the period of highest spawning activity. At its 137th meeting, the Council may take action to modify the proposed bottomfish management recommendation or develop modified alternatives based on recommendations from advisory bodies and public comments received.

3. Pelagic TAC Framework (ACTION ITEM)

At its 137th meeting, the Council may take action to adjust the framework process within the Pelagics Fishery Management Plan (PFMP) to allow for the implementation of longline catch limits stemming from the decisions of the two Pacific tuna Regional Fishery Management Organizations (RFMOs). International management and conservation of bigeye tuna in the Pacific is the responsibility of the Western and Central Pacific Fishery Commission (WCPFC) and the Inter-American Tropical Tuna Commission (IATTC). The two Pacific tuna RFMOs have already implemented limits on fleet-wide catches of bigeye tuna by longline vessels, and it is likely that further measures may also be applied to other tunas caught by longliners. Currently, there is no mechanism by U.S. catch limits established by an RFMO can be efficiently implemented through the Magnuson-Stevens Act (MSA) process by the Western Pacific Council. At its 136th meeting, the Council recommended that the framework process for the PFMP, implemented under Amendment 7 to the PFMP, be revised to give the Council the ability to implement catch limits for the harvesting of pelagic fish by longline vessels.

An amendment to the PFMP typically requires approximately one year for the completion of necessary documentation, analysis Secretarial review and approval, and implementation. Pacific RFMO tuna harvest limits are likely to

change annually, based on the results of stock assessments and other changes in the fishery. Timely domestic implementation of catch limits stemming from the tuna RFMOs will require that abbreviated background work and documentation be prepared in advance of RFMO decisions. The framework process is designed for this situation. Under this process the Council will prepare and review analyses of anticipated impacts of a likely range of catch limits. This analysis will then be used by the Council to accept or modify the RFMO decisions under the MSA. All analyses will be subject to public review and comment, as will any proposed rule resulting from this process.

4. Guam Longline Area Closure (ACTION ITEM)

Until recently, longlining has not been conducted by U.S. vessels based out of ports in the Mariana Islands (Guam and the Commonwealth of the Northern Mariana Islands). In 2006, however, the Guam Fishermen's Cooperative (GFC) began operating a longline vessel, fishing primarily within the EEZ waters around Guam using a 60ft fishing vessel converted to longlining through assistance from the Council's Community Demonstration Project Program (CDPP).

However, the operations of the GFC vessel are limited due to a 50 nautical mile area closure for longline and purse seine vessels around the island of Guam and its offshore banks, implemented in 1992 through Amendment 5 to the Pelagics Fishery Management Plan (PFMP). At that time there was no domestic Guam longline fishery but troll fishermen were concerned about an influx of longline vessels from outside the territory following the expansion of the Hawaii longline fishery after 1987. In response to these concerns, the Council recommended the implementation of the 50 nm Guam longline area closure.

The original concerns about expansion of U.S. longline fishing home-ported out of Guam through vessels migrating from other parts of the US now appear to be unfounded. As such the area closures developed in the

early 1990s may now be an unnecessary impediment to the continued growth of 'domestic' longlining on Guam.

However, troll fishermen on Guam may still wish to see some form of protection from gear conflict with longline fishing. At its 137th meeting thus the Council may take action to modify the existing longline area closure boundaries or develop some form of exemption process which may allow controlled access to the closed area for longline vessels.

5. Hawaii Swordfish Effort Limit Modification (ACTION ITEM)

The Hawaii Longline Association (HLA) has petitioned the Western Pacific Council to eliminate current fishing effort limits for swordfish longline fishing and allow an expansion of Hawaii-based shallow-set fishing effort. HLA's petition cites new information establishing that sea turtle bycatch and mortality have been markedly reduced in this fishery to the extent practicable and is rare events. Moreover, the HLA petition states that limits on fishing effort in Hawaii do more harm than good for sea turtles by shifting fishing effort to foreign fisheries that have much higher sea turtle bycatch and mortality rates.

The Hawaii-based longline swordfish fishery began in 1988, and grew rapidly to become a major U.S. fresh fish supplier. By the late 1990s, the Hawaii-based swordfish fishery supplied 37 to 47 percent of the total annual U.S. domestic swordfish consumption. Until early 2001, the Hawaii-based longline shallow-set (swordfish-target) fishery was managed under Federal regulations in combination with the Hawaii-based longline deep-set (tuna-target) fishery. However, as a result of a highly dynamic regulatory environment that began in 2000, the two Hawaii-based longline fisheries are now separately managed. In March 2001, fishing restrictions were imposed that prohibited Hawaii-based longline vessels from targeting swordfish and, accordingly, Hawaii swordfish production collapsed. In late 2003, Federal regulations prohibiting the swordfish component of the Hawaii-based longline fishery were invalidated

in Federal court. As a consequence, new fishery regulations were adopted effective April 2, 2004, which provide for limited shallow-set fishing effort (2,210 sets annually) subject to stringent operational requirements for 18.0 circle hooks, mackerel-type bait, and highly conservative incidental take limits adopted for protected sea turtle species.

Under the proposal advanced by HLA the current fishing effort limit of only 2,120 shallow sets each year would be eliminated. With the elimination of fishing effort-based restrictions, new sea turtle take limits would be adopted consistent with the expected level of shallow-set fishing effort. The HLA petition indicated that due to significant reductions in the rate of serious injuries and mortalities, the expected mortality would increase by less than 1 loggerhead sea turtle, and would remain the same or decrease for leatherback, green and olive ridley sea turtles, in comparison to the existing regulatory regime. In addition, the HLA petition asserts that by eliminating the considerable adverse impact on sea turtles from domestic consumption of swordfish caught in largely unregulated fisheries, the impact of global fishing on Pacific sea turtle populations as a whole would be reduced by hundreds of sea turtles each year.

At its 137th Meeting, the Council will consider the HLA petition and may decide to take action to modify the current management of the Hawaii swordfish fishery.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808-522-8220 (voice) or (808)522-8226 (fax), at least 5 days prior to the meeting date.

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

Dated: February 16, 2007.

James P. Burgess,

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

[FR Doc. E7-3137 Filed 2-22-07; 8:45 am]

BILLING CODE 3510-22-S

Notices

Federal Register

Vol. 72, No. 36

Friday, February 23, 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.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

ACTION: Proposed Deletions from Procurement List.

SUMMARY: This action deletes from the Procurement List products and services previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must be Received on or Before: March 25, 2007.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202-3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603-7740, Fax: (703) 603-0655, or e-mail CMTEFedReg@jwod.gov.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a) (2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-

O'Day Act (41 U.S.C. 46-48c) in connection with the products and services proposed for deletion from the Procurement List.

End of Certification

The following products and services are proposed for deletion from the Procurement List:

Products

Clock, Atomic, Standard, Thermometer.

NSN: 6645-01-491-9810—Clock, Atomic, Standard, Thermometer.

NSN: 6645-01-491-9811—Clock, Atomic, Standard, Thermometer.

NSN: 6645-01-491-9812—Clock, Atomic, Standard, Thermometer.

NSN: 6645-01-491-9813—Clock, Atomic, Standard, Thermometer.

NSN: 6645-01-491-9817—Clock, Atomic, Standard, Thermometer.

NSN: 6645-01-491-9818—Clock, Atomic, Standard, Thermometer.

NSN: 6645-01-491-9833—Clock, Atomic, Standard, Thermometer.

NSN: 6645-01-491-9834—Clock, Atomic, Standard, Thermometer.

NSN: 6645-01-491-9842—Clock, Atomic, Standard, Thermometer.

NSN: 6645-01-491-9843—Clock, Atomic, Standard, Thermometer.

NSN: 6645-01-491-9845—Clock, Atomic, Standard, Thermometer.

NSN: 6645-01-492-0379—Clock, Atomic, Standard, Thermometer.

NPA: The Chicago Lighthouse for People who are Blind or Visually Impaired, Chicago, IL.

Contracting Activity: Office Supplies & Paper Products Acquisition Ctr, New York, NY.

Harness, Safety Shoulder.

NSN: 2540-00-432-1343—Harness, Safety Shoulder.

NPA: Huntsville Rehabilitation Foundation, Huntsville, AL.

Contracting Activity: Defense Supply Center Columbus, Columbus, OH.

Pencil, Mechanical, Push-Action (MD).

NSN: 7520-01-484-3907—Pencil, Mechanical, Push-Action (MD).

NSN: 7520-01-484-3908—Pencil, Mechanical, Push-Action (MD).

NPA: San Antonio Lighthouse for the Blind, San Antonio, TX.

Contracting Activity: Office Supplies & Paper Products Acquisition Ctr, New York, NY.

Table, Printer.

NSN: 7110-01-226-1707—Table, Printer.

Bookcase.

NSN: 7110-01-148-2414—Bookcase.

NSN: 7110-01-276-3627—Bookcase.

Cabinet, Telephone.

NSN: 7110-01-148-2421—Cabinet, Telephone.

Credenza.

NSN: 7110-00-762-5513—Credenza.

NSN: 7110-01-148-2419—Credenza.

NSN: 7110-01-276-3628—Credenza.

NSN: 7110-01-276-3629—Credenza.

Desk.

NSN: 7110-01-148-2410—Desk.

NSN: 7110-01-148-2411—Desk.

NSN: 7110-01-170-3594—Desk.

NSN: 7110-01-170-3595—Desk.

NSN: 7110-01-170-3596—Desk.

NSN: 7110-01-170-3597—Desk.

NSN: 7110-01-170-3598—Desk.

NSN: 7110-01-170-7582—Desk.

Storage Unit, Overhead.

NSN: 7110-01-276-3625—Storage Unit, Overhead.

NPA: Unknown.

Contracting Activity: GSA, National Furniture Center, Arlington, VA.

Services

Service Type/Location: Grounds

Maintenance, U.S. Army Reserve Center (Lawton), 900 Cache Road, Lawton, OK.

Service Type/Location: Janitorial/Custodial, U.S. Army Reserve Center (Lawton), 900 Cache Road, Lawton, OK.

NPA: Goodwill Industries of Southwest Oklahoma, Inc., Lawton, OK.

Contracting Activity: Department of the Army.

Service Type/Location: Janitorial/Custodial, 926th Fighter Wing, Naval Air Station Joint Reserve Base, New Orleans, LA.

NPA: Goodworks, Inc., New Orleans, LA.

Contracting Activity: 301st Operational Contracting, Ft. Worth, TX.

Contracting Activity: 301st Operational Contracting, Ft. Worth, TX.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E7-3125 Filed 2-22-07; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Correction of Notice of Deletion

In the document appearing on page 3782, FR Doc E7-1271, Procurement List Additions and Deletions, in the issue of Friday, January 26, 2007, in the first column, the Committee published deletion of a service for Grounds Maintenance, Marine Corps Air Station, San Diego, CA. This notice corrects that deletion of the service to read as follows: for Grounds Maintenance, Marine Corps Air Station, Bachelors Quarters Only, San Diego, CA. The other deletions announced in the Notice

remain the same. The effective date of February 25, 2007 remains the same.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E7-3130 Filed 2-22-07; 8:45 am]

BILLING CODE 6353-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021607F]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene the Standing Scientific and Statistical Committee (SSC) to address four issues (see **SUPPLEMENTARY INFORMATION**).

DATES: The meeting will begin at 8:30 a.m. on Thursday, March 15 & 16, 2007 and conclude by 3 p.m.

ADDRESSES: *Meeting address:* The meeting will be held at the Four Points by Sheraton, 6401 Veterans Memorial Blvd., Metairie, LA 70003.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: 813-348-1630.

SUPPLEMENTARY INFORMATION: The SSC will address these issues:

Review and provide guidance on the draft provisions of Reef Fish Amendment 27 and Shrimp Amendment 14 which set management measures to rebuild the red snapper resource in the Gulf of Mexico.

Review the SEDAR 12 assessment of red grouper in the Gulf of Mexico. The SSC will determine if the SEDAR 12 Review Panel reports are based on the best available information. The SSC may provide guidance to the Council about the results of the assessment and research recommendations made by the SEDAR panels.

Examine the availability of new information on Gulf of Mexico red drum and provide guidance to the Council on whether a SEDAR benchmark assessment can be conducted and may comment on new research or data

collections would be necessary to adequately conduct such an assessment.

Review the provisions of the Scoping document for Reef Fish Amendment 30 which includes gag and red grouper, greater amberjack and gray triggerfish management measures to determine if they are scientifically sound based on the recent SEDAR assessments of these species.

A copy of the agenda and related materials can be obtained by calling the Council office at 813-348-1630.

Although other non-emergency issues not on the agendas may come before the Standing Scientific and Statistical Committee (SSC), in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (M-SFCMA), those issues may not be the subject of formal action during this meeting. Actions of the Standing Statistical Committee (SSC) will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the M-SFCMA, provided the public has been notified of the Council's intent to take action to address the emergency.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina Trezza at the Council (see **ADDRESSES**) at least five working days prior to the meeting.

Dated: February 16, 2007.

Tracey L. Thompson,

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

[FR Doc. E7-3057 Filed 2-22-07; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 060824225-6225-01; I.D. 021207A]

Fisheries in the Western Pacific; Western Pacific Crustacean Fisheries; 2007 Harvest Guideline

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

ACTION: Notification of harvest guideline for crustaceans.

SUMMARY: NMFS announces that the annual harvest guideline for the commercial lobster fishery in the Northwestern Hawaiian Islands (NWHI)

for calendar year 2007 is established at zero lobsters.

FOR FURTHER INFORMATION CONTACT: Bob Harman, NMFS Pacific Islands Region, 808-944-2271.

SUPPLEMENTARY INFORMATION: The NWHI commercial lobster fishery is managed under the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (Crustaceans FMP). The regulations at 50 CFR 665.50(b)(2) require NMFS to publish an annual harvest guideline for lobster Permit Area 1, comprised of Federal waters around the NWHI.

The NWHI commercial lobster fishery, which operates almost exclusively within 50 nm of the NWHI archipelago, has been closed since 2000, initially as a precautionary action to prevent overfishing of spiny and slipper lobster resources while NMFS conducted biological research and assessed the status of the lobster stocks. In 2001, the U.S. District Court for the District of Hawaii ordered the fishery to remain closed until an environmental impact statement and a biological opinion were prepared for the Crustaceans FMP. Also in December 2000 and January 2001, the NWHI Coral Reef Ecosystem Reserve (Reserve) was established by Executive Order which, among other provisions, prohibited commercial lobster fishing in the Reserve. The boundary of the Reserve extended to a distance of 50 nm seaward from the islands of the NWHI. On June 15, 2006, Presidential Proclamation No. 8031 established the NWHI Marine National Monument. The Proclamation requires that any commercial lobster fishing permit shall be subject to a zero annual harvest limit. The Proclamation also prohibited unpermitted removal, moving, taking, harvesting, possessing, injuring, disturbing, or damaging; or attempting to remove, move, take, harvest, possess, injure, disturb, or damage any living or nonliving monument resource. Subsequently, NOAA and the U.S. Fish and Wildlife Service jointly promulgated regulations implementing the Proclamation, including these measures (71 FR 51134, August 29, 2006), to be codified at 50 CFR part 404.

Consistent with the regulatory provisions that establish the unpermitted removal of monument resources and zero annual harvest guideline (50 CFR 404.7 and 404.10(a), respectively), NMFS establishes the harvest guideline at zero lobsters for the NWHI commercial lobster fishery for calendar year 2007; thus, no harvest of NWHI lobster resources is allowed.

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

Dated: February 16, 2007.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. E7-3147 Filed 2-22-07; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021607I]

Endangered Species; File No. 1547-01

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

ACTION: Notice; application for permit modification; request for comments.

SUMMARY: Notice is hereby given that the New York State Department of Environmental Conservation (Kathryn Hattala, Principal Investigator), 21 South Putt Corners Road, New Paltz, NY 12561, has applied in due form for a permit modification to take shortnose sturgeon (*Acipenser brevirostrum*) for purposes of scientific research.

DATES: Written, telefaxed, or e-mail comments must be received on or before March 26, 2007.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

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 Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298; phone (978)281-9328; fax (978)281-9394.

Written comments or requests for a public hearing on this modification should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this permit modification 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 to NMFS.Pr1Comments@noaa.gov. Include in the subject line of the e-mail

comment the following document identifier: "File No. 1547-01."

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Brandy Hutnak, (301)713-2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of 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 parts 222-226).

Currently, the New York State Department of Environmental Conservation is authorized in Permit No. 1547 to conduct scientific research to evaluate seasonal movement of shortnose sturgeon in Haverstraw and Newburgh Bays of the Hudson River. A maximum of 500 adult and juvenile shortnose sturgeon can be captured with gill nets, measured, weighed, scanned for tags, PIT and Carlin tagged (if untagged), and released annually. The applicant now proposes to collect soft fin-ray tissue samples from all captured shortnose sturgeon. The goal of the additional research would be to document and map the genetic identity of shortnose sturgeon in the Hudson River. The modification would run concurrently with the original permit until October 31, 2011.

Dated: February 16, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7-3149 Filed 2-22-07; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Hearings for the Draft Supplemental Environmental Impact Statement (DSEIS) for the Introduction of F/A-18 E/F (Super Hornet) Aircraft to the East Coast of the United States (Construction and Operation of an Outlying Landing Field)

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy (DON) has prepared and filed with the U.S. Environmental Protection Agency (EPA) a DSEIS to provide additional analysis of the potential environmental consequences associated with the construction and operation of an Outlying Landing Field (OLF) to support Field Carrier Landing Practice (FCLP) operations of F/A-18 E/F (Super

Hornet) squadrons stationed at Naval Air Station (NAS) Oceana, VA and Marine Corps Air Station (MCAS) Cherry Point, NC. The analysis supplements the evaluation presented in the Final Environmental Impact Statement (Final EIS) for the Introduction of F/A-18 E/F (Super Hornet) Aircraft to the East Coast of the United States, which was released to the public in July 2003, and is not to be considered independent of the Final EIS. Public hearings will be held to provide information and receive oral and written comments on the DSEIS. Federal, state, and local agencies, and interested individuals are invited to be present or represented at hearings.

DATES AND ADDRESSES: Six public hearings will be held. Each scheduled public hearing will be preceded by an open information session to allow interested individuals to review information presented in the DSEIS. DON representatives will be available during the information session to provide clarification as necessary related to the DSEIS. Each information session will occur from 4:30 p.m. to 6:30 p.m., followed by the formal public hearing from 7 p.m. to 10 p.m. Public hearings have been scheduled at the following dates and locations:

Monday, March 19, 2007, Mattamuskeet Elementary School, 60 Juniper Bay Road, Swan Quarter, NC.

Tuesday, March 20, 2007, Bertie High School, 715 U.S. Highway 13 North, Windsor, NC.

Wednesday, March 21, 2007, Perquimans County High School, 305 Edenton Road, Hertford, NC.

Thursday, March 22, 2007, Craven County Community College, Orringer Hall, 800 College Court, New Bern, NC.

Tuesday, April 3, 2007, Beaufort Community College, 5337 U.S. Highway 264 East, Washington, NC.

Wednesday, April 4, 2007, Vernon G. James Research and Extension Center, North Carolina State University, 207 Research Station Road, Plymouth, NC.

FOR FURTHER INFORMATION CONTACT: Naval Facilities Engineering Command Atlantic, OLF SEIS PM, Code EV2, 6506 Hampton Blvd., Norfolk, VA, facsimile 757-322-4894.

SUPPLEMENTARY INFORMATION: The DON has prepared and filed with the EPA the DSEIS for the Introduction of F/A-18 E/F (Super Hornet) Aircraft to the East Coast of the United States (Construction and Operation of an Outlying Landing Field) in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. Sections 4321-4345)

and its implementing regulations (40 CFR parts 1500–1508).

A Notice of Intent for this DSEIS was published in the **Federal Register** on June 24, 2005 (70 FR 36556). The DON is lead agency for the proposed action with the U.S. Fish and Wildlife Service serving as a cooperating agency.

The proposed action is to construct and operate an OLF to support FCLP operations of Super Hornet squadrons stationed at NAS Oceana, VA and MCAS Cherry Point, NC. This is a component of the proposed action evaluated in the Final EIS to provide facilities and functions to support the homebasing and operation of these squadrons. A Record of Decision (ROD) on the homebasing and operation of the Super Hornet squadrons was published in the **Federal Register** on September 10, 2003 (68 FR 53353). The ROD documented the DON's decision to homebase eight Super Hornet fleet squadrons and the Fleet Replacement Squadron (FRS) at NAS Oceana, and two fleet squadrons at MCAS Cherry Point, and to construct an OLF between the two air stations in Washington County, NC (Site C). In January 2004, the DON's decision to construct and operate an OLF at Site C was challenged under the Administrative Procedure Act (5 U.S.C. Section 551 *et seq.*). On February 18, 2005, the U.S. District Court for the Eastern District of North Carolina held that the Final EIS was deficient and enjoined the DON from taking any further activity associated with the planning, development, or construction of the OLF at Site C until the DON fully complied with NEPA regarding construction and operation of an OLF. On September 7, 2005, the U.S. Court of Appeals for the Fourth Circuit affirmed, in part, the decision of the district court. This SDEIS addresses those areas identified by the courts that require additional analysis. These include: (1) Evaluation of potential impacts to migratory waterfowl and the Pocosin Lakes National Wildlife Refuge; (2) evaluation of impacts associated with surge operations; (3) identification and evaluation of mitigative measures; and (4) evaluation of cumulative impacts of the operation of the OLF and other military uses of airspace in North Carolina. Additional analysis of the existing and projected noise environment was warranted given the comprehensive scope of the impact of the proposed action on migratory waterfowl. Analysis of other resource areas was warranted to address federal permit and approval requirements (i.e., wetlands, and threatened and endangered species). Furthermore, an additional analysis of relevant

socioeconomic factors was conducted to evaluate the land acquisition strategy.

The DON's decision to homebase ten Super Hornet fleet squadrons and the FRS on the East Coast was not reevaluated. That aspect of the DON's proposed action, including aircraft operations, personnel transitions, and new construction and renovation to support the Super Hornet squadrons is being implemented at NAS Oceana and MCAS Cherry Point.

The five alternative OLF sites in Northeastern North Carolina that were evaluated in the Final EIS to support homebasing of the Super Hornet squadrons at NAS Oceana and MCAS Cherry Point are considered in the DSEIS, in addition to the no-action alternative. These are Site A in Perquimans County, Site B in Bertie County, Site C in Washington County, Site D in Hyde County, and Site E in Craven County. The Navy's preferred alternative for construction and operation of an OLF is Site C, in Washington County, NC.

The DSEIS has been distributed to various Federal, state, and local agencies, as well as other interested individuals and organizations. In addition, copies of the DSEIS have been distributed to the following libraries and publicly accessible facilities for public review:

Bath Community Library, 100 Carteret Street, Bath, NC.

Beaufort/Hyde/Martin Regional Library, Old Court House, 158 N. Market Street, Washington, NC.

Belhaven Public Library, 333 E. Main Street, Belhaven, NC.

George H. & Laura E. Brown Library, 122 Van Norden Street, Washington, NC.

Havelock-Craven County Library, 301 Cunningham Boulevard, Havelock, NC.

Hazel W. Guilford Memorial Library, 524 Main Street, Aurora, NC.

Lawrence Memorial Library, 204 E. Dundee Street, Windsor, NC.

Mattamuskeet Public School Library, 20418 U.S. Route 264, Swan Quarter, NC.

New Bern Craven County Public Library, 400 Johnson Street, New Bern, NC.

Perquimans County Library, 110 West Academy, Hertford, NC.

Vernon James Research and Extension Center Library, North Carolina State University, 207 Research Station Road, Plymouth, NC.

Washington County Library, 201 East Third Street, Plymouth, NC.

Chesapeake Central Library, 298 Cedar Road, Chesapeake, VA.

Virginia Beach Central Library, 4100 Virginia Beach Boulevard, Virginia Beach, VA.

Craven County Planning Department, 2828 Neuse Boulevard, New Bern, NC.

Bertie County Manager's Office, 106 Dundee Street, Windsor, NC.

Washington County Manager's Office, 116 Adams Street, Plymouth, NC.

Perquimans County Manager's Office, 128 North Church Street, 2d Floor, Hertford, NC.

Hyde County Manager's Office, 1372 Main Street, Swan Quarter, NC.

An electronic copy of the DSEIS is also available for public viewing at <http://www.olfseis.com>. Requests for single copies of the DSEIS (on CD-ROM) or its Executive Summary may be made online at <http://www.olfseis.com> or by calling 1-866-615-6477.

Federal, state, and local agencies, as well as interested parties, are invited and encouraged to be present or represented at the hearings. To ensure the accuracy of the record, all statements presented orally at the public hearings should be submitted in writing. All comments will become part of the public record and will be responded to in the Final Supplemental Environmental Impact Statement (FSEIS). Equal weight will be given to oral and written statements.

In the interest of available time, and to ensure all who wish to give an oral statement at the public hearings have the opportunity to do so, each speaker's comments will be limited to three minutes. If a longer statement is to be presented, it should be summarized at the public hearing and the full text submitted in writing either at the hearing or mailed or faxed to: Commander, Naval Facilities Engineering Command Atlantic, *Attn:* OLF SEIS Project Manager, 6506 Hampton Blvd., Norfolk, VA 23508-1278, facsimile 757-322-4894.

Residents from the county where the public hearing is being held will be given first priority to speak publicly, to ensure that county's residents have an opportunity to make verbal comments. Residents will be required to sign in to speak. Comments can be made in the following ways: (1) Oral statements/written comments at the public hearings or (2) written comments mailed or faxed to address/fax number in this notice or submitted via the Web site at <http://www.olfseis.com>.

All written comments postmarked by April 24, 2007, will become a part of the official public record and will be responded to in the FSEIS.

Dated: February 15, 2007.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7-3045 Filed 2-22-07; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Hanson Technologies, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Hanson Technologies, Inc., a revocable, nonassignable, exclusive license in the field of detection of pathogens, toxins, prions, and allergens in food for human consumption, and detection of pathogens, toxins, prions, and allergens in food processing for human consumption, including wash liquids and waste products of said process in the United States and certain foreign countries, the Government-owned invention described in U.S. Patent No. 6,192,168: REFLECTIVELY COATED OPTICAL WAVEGUIDE AND FLUIDICS CELL INTEGRATION, Navy Case No. 79,631 and any continuations, divisionals, or re-issues thereof.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than March 12, 2007.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375-5320.

FOR FURTHER INFORMATION CONTACT: Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375-5320, telephone 202-767-3083. Due to U.S. Postal delays, please fax 202-404-7920, e-mail: rita.manak@nrl.navy.mil or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR Part 404.)

Dated: 15 February 2007.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7-3104 Filed 2-22-07; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 24, 2007.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 16, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Impact Evaluation on Student Achievement of Teacher Professional Development in Mathematics.

Frequency: On Occasion.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 3,309.

Burden Hours: 1,571.

Abstract: Data collection to test a model of math professional development that addresses student misconceptions in foundational topics key to success in algebra and beyond.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 3282. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202-4700. Requests may also be electronically mailed to ICDocketMgr@ed.gov or faxed to 202-245-6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to ICDocketMgr@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. E7-3109 Filed 2-22-07; 8:45 am]

BILLING CODE 4000-01-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6684-4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed

to the Office of Federal Activities at 202-564-7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 2006 (71 FR 17845).

Draft EISs

EIS No. 20060155, ERP No. D-NPS-J65461-CO, Great Sand Dunes National and Preserve. General Management Plan/Wilderness Study, Implementation, Alamos and Saguache Counties, CO.

Summary: EPA does not object to the proposed project. Rating LO.

EIS No. 20060203, ERP No. D-BLM-J01081-WY, Maysdorf Coal Lease by Application (LBA) Tract, (Federal Coal Application WYW154432), Implementation, Campbell Counties, WY.

Summary: EPA expressed environmental concerns about the potential for adverse impacts to air quality. The Final EIS should include information demonstrating how compliance with national air quality standards for particulate matter will be achieved and as well as a more detailed mitigation plan. Rating EC2.

EIS No. 20060380, ERP No. D-AFS-J67033-CO, Robin Redbreast Unpatented Lode Claim Mining Plan of Operations, Implementation, U.S. Army COE Section 404 Permit, Located above the Middle Fork of the Cimarron River within the Uncompahgre Wilderness, Ouray Ranger District, Grand Mesa, Uncompahgre and Gunnison National Forests, Hinsdale County, CO.

Summary: EPA expressed environmental concerns about impacts to water quality from acid mine drainage. The Final EIS should include additional analysis of groundwater conditions and flow rates and more information regarding water treatment to meet water quality criteria. Rating EC2.

EIS No. 20060526, ERP No. D-AFS-G65102-NM, Canadian River Tamarisk Control, Proposes to Control the Nonnative Invasive Species Tamarisk (also known as salt cedar) Cibola National Forest, Canadian River, Harding and Mora Counties, New Mexico.

Summary: EPA does not object to the selection of the preferred alternative. Rating LO.

Final EISs

EIS No. 20060513, ERP No. F-AFS-J61109-CO, Arapahoe Basin 2006 Improvement Plan, Enhancing the Recreational Experience Addressing Lifts, Parking, and Terrain Network, Montezuma Bowl, Implementation, U.S.

Army COE 404 Permit, White River National Forest, Summit County, CO.

Summary: The final EIS addressed EPA's previous concerns related to alternatives, visitation impacts and safety. The Final EIS also included a comprehensive analysis of existing conditions and actions to improve water quality, habitat and mitigation for wetlands impacts.

EIS No. 20060516, ERP No. F-AFS-J65423-UT, Reissuance of 10-Year Term Grazing Permits to Continue Authorize Grazing on Eight Cattle Allotments, Permit Reissuing, Beaver Mountain Tushar Range, Millard, Piute, Garfield, Beaver and Iron Counties, UT.

Summary: EPA continues to express environmental concerns about the potential for impacts to water quality and aquatic resources.

EIS No. 20060520, ERP No. F-AFS-J65449-UT, Fishlake National Forest Off-Highway Vehicle Route Designation Project, Proposes to Designate a System of Motorized Road, Trails, and Areas to Revise and Update the Existing Motorized Travel Plan, UT.

Summary: The Final EIS was responsive to EPA's previous concerns about the cumulative impacts analysis and the analysis of existing conditions by adding summary information from integrated riparian surveys and forest monitoring reports.

EIS No. 20060524, ERP No. F-NRC-D03004-VA, Early Site Permit (ESP) at the North Anna Power Station ESP Site (TAC No. MC1128), New and Updated Information, Construction and Operation, NUREG-1811, Louisa County, VA.

Summary: EPA's comments from the Draft EIS and Supplemental EIS were adequately addressed in the Final EIS.

EIS No. 20070004, ERP No. F-NOA-L91028-AK, Alaska Groundfish Harvest Specifications Project, Establish Harvest Strategy for the Bering Sea and Aleutian Islands (BSAI) and Gulf of Alaska (GOA) Groundfish Fisheries, AK.

Summary: EPA does not object to the proposed action.

Dated: February 20, 2007.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E7-3113 Filed 2-22-07; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6684-3]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7167 or <http://www.epa.gov/compliance/nepa/>.

Weekly Receipt of Environmental Impact Statements Filed 02/12/2007 through 02/16/2007 Pursuant to 40 CFR 1506.9

EIS No. 20070052, Draft EIS, NPS, PA, Valley Forge National Historical Park, General Management Plan, Implementation, King of Prussia, PA, Comment Period Ends: 04/09/2007, Contact: Deirdre Gibson 610-783-1047

EIS No. 20070053, Draft EIS, AFS, ID, Sun Valley Resort (Bald Mountain) 2005 Master Plan—Phase I Project, Implementation, Special-Use-Permits, Sawtooth National Forest, Blaine County, ID, Comment Period Ends: 04/09/2007, Contact: Carol Brown 208-727-5000

EIS No. 20070054, Final EIS, NPS, UT, Utah Museum of Natural History, Construction and Operation, New Museum Facility at University of Utah, Salt Lake City, UT, Wait Period Ends: 03/26/2007, Contact: Roxanne Runkel 303-969-2377

EIS No. 20070055, Draft EIS, AFS, ID, Idaho Cobalt Project, Development of Two Underground Mines, a Waste Disposal Site and Associated Facilities, Approval of Plan-of-Operation, Salmon-Cobalt Ranger District, Salmon-Challis National Forest, Lemhi County, ID, Comment Period Ends: 04/24/2007, Contact: Ray Henderson 208-756-5231

EIS No. 20070056, Draft EIS, FHW, LA, I-49 South Project, from Raceland to the Westbank Expressway Route U.S. 90, Funding, Coast Guard Bridge Permit, U.S. Army COE Section 10 and 404 Permits, Jefferson, Lafourche, and St. Charles Parishes, LA, Comment Period Ends: 04/09/2007, Contact: Mark Stinson 225-757-7617

EIS No. 20070057, Final EIS, FHW, NC, Winston-Salem Northern Beltway, (Eastern Section) U.S. 52 south to I-40 Business and I-40 Business south to U.S. 311, Improvements to the Surface Transportation Network, TIP Project Nos. U2579 and U-2579A, Forsyth County, NC (THIS EIS #20070057 AND EIS #20070058 ARE COMBINED IN A SINGLE DOCUMENT.), Wait Period Ends:

03/26/2007, Contact: John F. Sullivan 919-856-4346

EIS No. 20070058, Second Final Supplement, FHW, NC, Western Section of the Winston-Salem Northern Beltway, Updated Information, U.S. 158 north to U.S. 52, TIP Project No. R-2247, Forsyth County, NC (THIS EIS #20070058 AND EIS 20070057 ARE COMBINED IN A SINGLE DOCUMENT.), Wait Period Ends: 03/26/2007, Contact: John F. Sullivan 919-856-4346

EIS No. 20070059, Final EIS, NPS, NV, Clean Water Coalition Systems Conveyance and Operations Program, (SCOP) Construction, Operation and Maintenance, Boulder Islands North is the Selected Alternative, City of Las Vegas, NV, Wait Period Ends: 03/26/2007, Contact: Michael Boyles 702-293-8978

EIS No. 20070060, Final EIS, AFS, WI, Twentymile Restoration Project Area, Restore Northern Hardwood Forests to an Uneven-aged Condition, Great Divide Ranger District, Chequamegon-Nicolet National Forest, Ashland and Bayfield Counties, WI, Wait Period Ends: 03/26/2007, Contact: Debra Proctor 715-634-4821

EIS No. 20070061, Draft EIS, BLM, CA, Mountain View IV Wind Energy Project, Construction and Operation, Wind Turbine Generators on Public Lands in Section 22 and 28 and Private Land Section 27, Right-of-Way Grant and Conditional Use Permit in the City of Palm Springs, CA, Comment Period Ends: 04/09/2007, Contact: Greg Hill 760-251-4840

EIS No. 20070062, Final EIS, NPS, NE, Niobrara National Scenic River General Management Plan, Implementation, Brown, Cherry, Keya Paha and Rock Counties, NE, Wait Period Ends: 03/26/2007, Contact: Paul Hedren 402-336-3970

EIS No. 20070063, Draft Supplement, USN, 00, Introduction of F/A 18 E/F (Super Hornet) Aircraft, Updated Information, Construction and Operation of an Outlying Landing Field, Naval Air Station (NAS) Oceana, VA; Marine Corps Air Station (MCAS) Cherry Point, NC, Comment Period Ends: 04/24/2007, Contact: Francine Blend 757-322-4332

EIS No. 20070064, Draft Supplement, FHW, AR, US 67 Construction, U.S. 67/167 to I-40 West/I-430 Interchange around the North Little Rock Metropolitan Area, New and Updated Information, Funding, Pulaski County, AR, Comment Period Ends: 04/12/2007, Contact: Randal Looney 501-324-6430

Dated: February 20, 2007.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E7-3112 Filed 2-22-07; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8280-7]

Science Advisory Board Staff Office; EPA Clean Air Scientific Advisory Committee (CASAC); CASAC Lead Review Panel; Notification of a Public Advisory Committee Meeting (Teleconference)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public teleconference of the Clean Air Scientific Advisory Committee (CASAC) Lead Review Panel (CASAC Panel) to review and approve the CASAC's draft letter to the EPA Administrator resulting from its February 6-7, 2007 meeting to conduct a peer review of the Draft Review of the National Ambient Air Quality Standards for Lead: Policy Assessment of Scientific and Technical Information (1st Draft Lead Staff Paper, December 2006) and a related draft technical support document, Lead Human Exposure and Health Risk Assessments and Ecological Risk Assessment for Selected Areas: Pilot Phase, Draft Technical Report (Draft Lead Exposure and Risk Assessments, December 2006).

DATES: The teleconference meeting will be held on Friday, March 9, 2007, from 1 to 5 p.m. (Eastern Time).

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to obtain the teleconference call-in number and access code; submit a written or brief oral statement (three minutes or less); or receive further information concerning this teleconference meeting, must contact Mr. Fred Butterfield, Designated Federal Officer (DFO). Mr. Butterfield may be contacted at the EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or via telephone/voice mail: (202) 343-9994; fax: (202) 233-0643; or e-mail at: butterfield.fred@epa.gov. General information concerning the CASAC or the EPA SAB can be found on the EPA Web site at <http://www.epa.gov/sab>.

SUPPLEMENTARY INFORMATION:

Background: The CASAC, which is comprised of seven members appointed by the EPA Administrator, was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. The CASAC provides advice, information and recommendations on the scientific and technical aspects of issues related to air quality criteria and NAAQS under sections 108 and 109 of the Act. The CASAC is chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The CASAC Lead Review Panel consists of the seven CASAC members augmented by subject-matter-experts. The CASAC Panel provides advice and recommendations to EPA concerning lead in ambient air. The Panel complies with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the national ambient air quality standards (NAAQS) for the six "criteria" air pollutants, including Lead. On February 6-7, 2007, the CASAC Panel met in a public meeting in Durham, NC to conduct a peer review of the Agency's 1st Draft Lead Staff Paper and a related Draft Lead Exposure and Risk Assessments technical support document. The purpose of this public teleconference meeting is to review and approve the CASAC's draft letter to the Administrator resulting from its February 6-7 meeting.

Availability of Meeting Materials: A copy of the CASAC's draft letter to the Administrator, the draft agenda, and other materials for this CASAC teleconference will be posted on the SAB Web Site at http://www.epa.gov/sab/panels/casac_lead_review_panel.htm prior to the meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the CASAC Lead Review Panel to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact Mr. Butterfield, CASAC DFO, in writing (preferably via e-mail), by March 2, 2007, at the contact information noted above, to be placed on the list of public speakers for this meeting. *Written Statements:* Written statements should be received in the SAB Staff Office by March 6, 2007, so

that the information may be made available to the CASAC Panel for their consideration prior to this teleconference. Written statements should be supplied to the DFO 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).

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Butterfield at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 16, 2007.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E7-3115 Filed 2-22-07; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8280-6]

Science Advisory Board Staff Office; Advisory Council on Clean Air Compliance Analysis; Notification of a Public Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency), Science Advisory Board (SAB) Staff Office announces a public meeting of the EPA's Advisory Council on Clean Air Compliance Analysis to review two draft documents associated with EPA's study on "Benefits and Costs of the Clean Air Act, 1990-2020."

DATES: The public meeting will take place March 15, 2007 (8:30 a.m.-5 p.m.) and March 16, 2007 (8:30 a.m.-12 p.m.).

ADDRESSES: The meeting will be held in Suite 3700 of the U.S. Environmental Protection Agency Science Advisory Board Conference Center; 1025 F Street, NW., Washington, DC 20004, phone (202) 343-9999.

FOR FURTHER INFORMATION CONTACT:

Members of the public who wish to obtain further information about this meeting must contact Dr. Holly Stallworth, Designated Federal Officer (DFO), EPA Science Advisory Board Staff Office (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460;

telephone/voice mail: (202) 343-9867 or, stallworth.holly@epa.gov.

SUPPLEMENTARY INFORMATION:

Background: The Advisory Council on Clean Air Compliance Analysis (Council) is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The Council is charged with providing advice, information and recommendations to the Agency on the economic issues associated with programs implemented under the Clean Air Act and its Amendments. Pursuant to a requirement under section 812 of the 1990 Clean Air Act Amendments, EPA conducts periodic studies to assess the benefits and the costs of the Clean Air Act. The Council has been the chief reviewing body for these studies and has issued advice on a retrospective study issued in 1997, a prospective study issued in 1999, and, since 2001, analytic blueprints for a second prospective study on the costs and benefits of clean air programs covering the years 1990-2020. EPA's Office of Air and Radiation (OAR) is proceeding to implement past advice offered by the Council on its forthcoming "Second Prospective Analysis." OAR's Web site on these section 812 studies may be found at <http://www.epa.gov/oar/sect812/>.

The purpose of the meeting is for OAR to provide a status update on the ongoing 812 study ("Benefits and Costs of the CAA-1990-2020") and for the Council to provide advice on the direct cost and the uncertainty modeling components of the study. Council members will discuss whether any additional advisory activities are needed prior to OAR's issuance of a final report. The meeting agenda and any background materials will be posted on the SAB Web Site at: <http://www.epa.gov/sab> prior to the meeting.

Procedures for Providing Public Input: Members of the public may submit relevant written or oral information for the Council to consider during the advisory process. **Oral Statements:** In general, individuals or groups requesting an oral presentation at a public meeting will be limited to three minutes per speaker with no more than a total of fifteen minutes for all speakers. Interested parties should contact the DFO, contact information provided above, in writing via e-mail at least by March 1, 2007 in order to be placed on the public speaker list.

Meeting Accommodations: For information on access or services for individuals with disabilities, please contact Dr. Holly Stallworth at (202) 343-9867, or via e-mail at

stallworth.holly@epa.gov. To request accommodation of a disability, please contact Dr. Stallworth, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 16, 2007.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E7-3116 Filed 2-22-07; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

EPA—New England Region I—EPA-R01-OW-2006-0581; FRL-8280-3]

Connecticut Marine Sanitation Device Standard—Receipt of Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice—Receipt of Petition.

SUMMARY: Notice is hereby given that a petition has been received from the state of Connecticut requesting a determination by the Regional Administrator, U.S. Environmental Protection Agency, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the state waters of Branford, East Haven, New Haven, West Haven, Orange, Milford, Stratford, Bridgeport, Fairfield, Westport, Norwalk, Darien, Stamford, and Greenwich. The proposed area also includes the Housatonic River from the Derby Dam and the Quinnipiac River from the southern border of North Haven.

DATES: Comments must be received on or before April 9, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OW-2006-0581 by one of the following methods: www.regulations.gov; Follow the on-line instructions for submitting comments.

• E-mail: rodney.ann@epa.gov.

• Fax: (617) 918-0538.

Mail and hand delivery: U.S.

Environmental Protection Agency—New England Region, One Congress Street, Suite 1100, COP, Boston, MA 02114-2023. Deliveries are only accepted during the Regional Office's normal hours of operation (8 a.m.-5 p.m., Monday through Friday, excluding legal holidays), and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R01-OW-2006-0581. EPA's policy is that all comments

received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected, through www.regulations.gov, or e-mail. The www.regulations.gov Web-site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your

comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the U.S. Environmental Protection Agency—New England Region, One Congress Street, Suite 1100, COP, Boston, MA 02114–2023. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed

information. The Regional Office is open from 8 a.m.–5 p.m., Monday through Friday, excluding legal holidays. The telephone number is (617) 918–1538.

FOR FURTHER INFORMATION CONTACT: Ann Rodney, U.S. Environmental Protection Agency—New England Region, One Congress Street, Suite 1100, COP, Boston, MA 02114–2023. Telephone: (617) 918–1538, Fax number: (617) 918–0538; e-mail address: rodney.ann@epa.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given that a petition has been received from the state of Connecticut requesting a determination by the Regional Administrator, U.S. Environmental Protection Agency, pursuant to Section 312(f)(3) of Public Law 92–500 as amended by Public Law 95–217 and Public Law 100–4, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available along coastlines and coastal tidal rivers within the following boundaries:

Waterbody/General Area	Latitude	Longitude
From Byram Point at the western border of Greenwich	40°59'03.15" N	73°39'24.55" W
Southeast following the boundary between CT & NY to a point in LIS	40°57'03.23" N	73°36'46.42" W
Easterly following the boundary between CT & NY to a point due south of Hoadley Point at the eastern border of Branford	41°07'51.17" N	72°44'09.73" W
Due north to Hoadley Point at the eastern border of Branford	41°15'22.88" N	72°44'09.73" W

The proposed area also includes the navigable reaches of all Connecticut rivers and tidal streams that drain into Long Island Sound within its bounds, including the Housatonic River from the Derby Dam and the Quinnipiac River from the southern border of North Haven.

Connecticut has certified that there are 43 pumpout facilities within the proposed area available to the boating public. A list of the facilities, phone numbers, locations, and hours of operation is appended at the end of this petition.

Connecticut has provided documentation indicating that the total vessel population is estimated to be 12,000 in the proposed area. It is estimated that 5,000 of the total vessel

population may have a Marine Sanitation Device (MSD) of some type. These total numbers may be overestimated by the state of Connecticut, which would give the boating public a larger ratio of pumpouts to boats (300–600 vessels for everyone facility). The majority of facilities are connected directly into the local wastewater treatment system.

The Wheeler State Wildlife Management Area and units of the McKinney National Wildlife Management Area are within or border the proposed No Discharge Area (NDA). There are approximately 107 marinas, 15 public boat ramps, 29 public and numerous private beaches located within the proposed No Discharge Area.

Both recreational and commercial shell fishermen use the area. There are thousands of acres of productive shellfish beds in the proposed NDA supporting oysters, hard shell clams, soft shell clams, and razor clams. The area supports a thriving commercial and recreational fishing fleet. Species of commercial and recreational interest include striped bass, bluefish, blackfish, summer flounder, and winter flounder. The proposed area has a variety of rich natural habitats, and supports a wide diversity of species. The federally listed species include the bald eagle, shortnose sturgeon, piping plover, and puritan tiger beetle as well as dozens of state designated rare and endangered species.

PUMPOUT FACILITIES WITHIN PROPOSED NO DISCHARGE AREA

Name	Location (figure)	Contact information	Hours of operation (call ahead to verify)	Mean low water depth	Fee
Grass Island Municipal Pumpout.	Greenwich Harbor, Greenwich (5A).	No Radio 203–618–9695	May 1–Oct 31, daily 8 a.m. to 8 p.m.	7 feet	Free.

PUMPOUT FACILITIES WITHIN PROPOSED NO DISCHARGE AREA—Continued

Name	Location (figure)	Contact information	Hours of operation (call ahead to verify)	Mean low water depth	Fee
Beacon Point Marine	Mianus River, Cos Cob (5A).	VHF CH 9 203-661-4033	April 1–Nov 30, M–F 8 a.m. to 5 p.m., Sat 8 a.m. to 6 p.m., Sun 8 a.m. to 4 p.m.	6 feet	\$5.
Mianus River Boat & Yacht Club.	Mianus River, Cos Cob (5A).	No Radio 203-869-4689	April 1–Nov 30, daily 24 hours.	No Data ...	Free.
Riverside Yacht Club	Mianus River, Cos Cob (Not shown on Figure).	203-637-1706	No Data	No Data ...	Members/guests only.
Soundkeeper Pumpout Boat.	Greenwich Harbor, Greenwich (5A).	VHF CH 77 1-800-933-SOUND.	May 1–Labor Day, W, Th, F 1 p.m. to 5 p.m., Sat, Sun 10 a.m.–6 p.m. Call for Fall Hours.	N/A	Free.
Cummings Park Marina ...	Westcott Cove, Stamford (5A).	No Radio 203-977-5139	Apr 1–Nov 30, daily 24 hours.	2 feet	Free.
Czescik Municipal Marina	Stamford Harbor, Stamford (5A).	No Radio 203-977-5008	Year round, daily 24 hours.	5 feet	Free.
Harbour Square Marina ...	Stamford Harbor East Branch, Stamford (5A).	VHF CH 9 203-324-3331	May 1–Nov 30, daily 9 a.m. to 8 p.m.; Dec 1–Dec 31, daily 9 a.m. to 3 p.m.	8 feet	\$15 for boats >28 feet; \$5 for boats <28 feet; free with gas fill-up.
Soundkeeper Pumpout Boat.	Stamford Harbor, Stamford (5A).	VHF CH 77 1-800-933-SOUND.	May 1–Labor Day call for hours.	N/A	Free.
Stamford Landing Marina	Stamford Harbor West Branch, Stamford (5A).	VHF CH 9 203-965-0065	May 1–Oct 31, daily 9 a.m. to 5 p.m.	9 feet	\$15.
Brewer Yacht Haven	Stamford (5A)	No data	No data	No data ...	No data.
Avalon	Stamford Harbor (5A)	No data	No data	No data ...	No data.
Soundkeeper Pumpout Boat I.	Norwalk Harbor, Fivemile River, Campo Cove, Saugatuck River (5A).	VHF CH 77 1-800-933-SOUND.	May 1–Labor Day, T, Th, F, 8 a.m. to 6 p.m. Call for Fall Hours.	N/A	Free.
Soundkeeper Pumpout Boat II.	Norwalk Harbor, Fivemile River, Campo Cove, Saugatuck River (Not shown on Figure).	VHF CH 77 1-800-933-SOUND.	May 1–Labor Day, T, Th, F, 8 a.m. to 6 p.m. Call for Fall Hours.	N/A	Free.
Norwalk Cove Marina, Inc	Charles Creek, Norwalk (5A).	VHF CH 9, 72 203-838-2326.	Jan 1–Nov 30, daily 8 a.m. to 6 p.m.	10 feet	\$5.
Norwalk Cove Marina, Inc	Charles Creek, Norwalk (5A).	VHF CH 9, 72 203-838-2326.	Jan 1–Nov 30, daily 8 a.m. to 6 p.m.	10 feet	\$5.
Norwalk Visitor's Dock	Norwalk Harbor, Norwalk (5A).	VHF CH 9 203-866-8810	May 1–Oct 31, daily 7 a.m. to 6 p.m.	6 feet	Free.
Rex Marine Center, Inc	Norwalk Harbor, Norwalk (5A).	VHF CH 9 203-866-5555	Apr 1–Nov 30, daily 8 a.m. to 5 p.m.	6 feet	Free.
South Norwalk Boat Club	Norwalk Harbor, Norwalk (5A).	No data	No data	No data ...	Member only.
The Boatworks, Inc	Fivemile River, Rowayton (5A).	VHF CH 68 203-866-9295.	Apr 1–Nov 30, daily 8 a.m. to 4:30 p.m.	6 feet	Free.
Compo Yacht Basin	Saugatuck River, Westport (5B).	VHF CH 11, 16 203-227-9136.	May 1–Sept 30, daily 8 a.m. to 8 p.m.	9 feet	Free.
Pequot Yacht Club	Southport Harbor, Fairfield (5B).	VHF CH 69 203-255-5740.	May 15–Oct 1, daily 9 a.m. to 8 p.m.	No Data ...	Free.
South Benson Marina	Ash Creek, Fairfield (5B)	VHF CH 9, 16 203-256-3010.	May 1–Nov 30, daily 8 a.m. to 6 p.m.	No data ...	Free.
Captain's Cove Seaport ...	Black Rock Harbor, Bridgeport (5B).	VHF CH 18 203-335-1433.	May 1–Sept 30, daily 9 a.m. to 4 p.m.	15 feet	Free.
Cedar Marina, Inc.	Cedar Creek, Bridgeport (5B).	VHF CH 9 203-335-6262	April 1–Nov 30, daily 8 a.m. to 5 p.m.	8 feet	\$5.
City of Bridgeport Pumpout Boat.	Black Rock and Bridgeport Harbors, Bridgeport (5B).	VHF CH 6, 9, 13, 16 203-384-9777.	Apr 1–Oct 31, daily 9 a.m. to 5 p.m.	N/A	Free.
Fayerweather Yacht Club	Black Rock Harbor, Bridgeport (5B).	VHF CH 14 203-576-6796.	May 15–Oct 15, daily 8 a.m. to 8 p.m.	4 feet	\$5.
Miamogue Yacht Club Incorporated.	Johnson's Creek, Bridgeport Harbor (Not shown on Figure).	203-334-9882 .....	.....	.....	.....
Brewer Stratford Marina ...	Housatonic River, Stratford (5C).	VHF CH 9, 10 203-378-9300.	Year round, daily 9 a.m. to 5 p.m.	10 feet	\$5 (free for customers).
Caswell Cove Marina	Stratford (5C)	No data	No data	No data ...	No data.
Stratford Boardwalk Marina (Formerly Marina at the Dock).	Housatonic River, Stratford (5C).	VHF CH 9 203-378-9300	Apr 1–Oct 31, daily 8 a.m. to 5 p.m.	8 feet	\$5.

PUMPOUT FACILITIES WITHIN PROPOSED NO DISCHARGE AREA—Continued

Name	Location (figure)	Contact information	Hours of operation (call ahead to verify)	Mean low water depth	Fee
Town of Stratford Pumpout Boat.	Housatonic River, Stratford (5C).	VHF CH 68 203-381-2049.	May 15-Oct 31, Th-M 10 a.m. to 6 p.m.	N/A	Free.
Milford Harbor Marina	Milford Harbor, Milford (5C).	VHF CH 68 203-877-1475.	May 1-Oct 31, daily 8 a.m. to 5 p.m.	8 feet	\$5.
Milford Landing	Milford Harbor, Milford (5C).	VHF CH 9 203-874-1610	Apr 1-Nov 30 daily 7 a.m. to 8 p.m.	9 feet	Free.
West Cove Co-op Marina	West River, West Haven (5C).	No Radio 203-933-3000	May 1-Sept 30, W-F 3 p.m. to 7 p.m., Sat and Sun 8 a.m. to 7 p.m.	8 feet	\$5.
City of New Haven Long Wharf.	New Haven Harbor, New Haven (5C).	No Radio 203-946-6779	Memorial Day-Labor Day, M-F 9 a.m. to 5 p.m. Sat, Sun 10 a.m. to 5 p.m.	No data	Free.
Oyster Point Marina	New Haven Harbor, New Haven (5C).	VHF CH 9, 11 203-624-5895.	Apr 1-Oct 31, daily 8 a.m. to 5 p.m.	8 feet	\$5.
Waucoma Yacht Club	Quinnipiac River, New Haven (5C).	VHF CH 9 203-789-9530	Memorial Day-Nov 15, M-F 3 p.m. to 7 p.m. Sat and Sun 10 a.m. to 7 p.m.	4 feet	Free.
Branford Yacht Club	Branford River, Branford (5C).	VHF CH 9 203-488-0798	June 1-Sept 30, daily 8 a.m. to 7:30 p.m.; April 1-May 31 and Oct 1-Oct 31, daily 8 a.m. to 4:30 p.m.	9 feet	\$5 (free for customers).
Brewer Bruce & Johnson's Marina, Inc.	Branford River, Branford (5C).	VHF CH 9 203-488-8329	Apr 1-Nov 30, daily 8 a.m. to 4:30 p.m.	8 feet	\$5 (free for customers).
Goodsell Point Marina	Branford River, Branford (5C).	No Radio 203-488-5292	May 1-Nov 30, daily 9 a.m. to 5 p.m.	7 feet	\$25.
Pier 66 Marina	Branford River, Branford (5C).	VHF Ch 9 203-488-5613	N/A	10 feet	
Pine Orchard Yacht Club	Branford (5C)	No data	No data	No data	Members only.
Town of Branford Pumpout Boat.	Branford River & Thimble Islands, Branford (5C).	VHF CH 9 203-430-9305	May 15-Oct 31, Sat 8 a.m. to 3 p.m., Sun 8 a.m. to 4 p.m.	N/A	Free.

Dated: February 12, 2007.

Robert W. Varney,

Regional Administrator, New England Region 1.

[FR Doc. 07-825 Filed 2-22-07; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collections to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of

the eight information collection systems described below.

DATES: Comments must be submitted on or before March 26, 2007.

ADDRESSES: Interested parties are invited to submit written comments to Steve Hanft, (202) 898-3907, Clearance Officer, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. Comments may also be Faxed to (202) 898-8788; or e-mailed to: *comments@fdic.gov*. All comments should refer to the relevant OMB control number.

A copy of the comments may also be submitted to the OMB desk officer for the FDIC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Steve Hanft, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collections of Information

1. *Title:* Interagency Charter and Federal Deposit Insurance Application. *OMB Number:* 3064-0001.

Frequency of Response: On occasion.

Affected Public: Banks of savings associations wishing to become FDIC-insured depository institutions.

Estimated Number of Respondents: 193.

Estimated Time per Response: 125 hours.

Total Annual Burden: 24,125 hours.

General Description of Collection: The Federal Deposit Insurance Act requires proposed financial institutions to apply to the FDIC to obtain deposit insurance. This collection provides the FDIC with the information needed to evaluate the applications.

2. *Title:* Securities of Insured Nonmember Banks.

OMB Number: 3064-0030.

Form Numbers: 3, 4, 5.

Frequency of Response: On occasion.

Affected Public: Generally, any person subject to section 16 of the Securities

Exchange Act of 1934 with respect to securities registered under 12 CFR 335. *Estimated Number of Respondents:* 1,333.

Estimated Time per Response: 0.6 hours.

Total Annual Burden: 1,800 hours.

General Description of Collection:

FDIC bank officers, directors, and persons who beneficially own more than 10% of a specified class of registered equity securities are required to publicly report their transactions in equity securities of the issuer.

3. *Title:* Application for a Bank to Establish a Branch or Move its Main Office or Branch.

OMB Number: 3064-0070.

Frequency of Response: On occasion.

Affected Public: Insured financial institutions.

Estimated Number of Respondents: 1,540.

Estimated Time per Response: 5 hours.

Total Annual Burden: 7,700 hours.

General Description of Collection:

Insured institutions must obtain the written consent of the FDIC before establishing or moving a main office or branch.

4. *Title:* Application for Consent to Reduce or Retire Capital.

OMB Number: 3064-0079.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks.

Estimated Number of Respondents: 80.

Estimated Time per Response: 1 hour.

Total Annual Burden: 80 hours.

General Description of Collection:

Insured state nonmember banks proposing to change their capital structure must submit an application containing information about the proposed change to obtain FDIC's consent to reduce or retire capital.

5. *Title:* Appraisal Standards.

OMB Number: 3064-0103.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks.

Estimated Number of Respondents: 5,346.

Estimated Time per Response: 15 minutes.

Estimated Number of Responses: 328,600.

Total Annual Burden: 82,150 hours.

General Description of Collection:

FIRREA directs the FDIC to prescribe appropriate performance standards for real estate appraisals connected with Federally related transactions under its jurisdiction. This information collection is a direct consequence of the statutory requirement.

6. *Title:* Activities and Investments of Savings Associations.

OMB Number: 3064-0104.

Frequency of Response: On occasion.

Affected Public: Insured Savings Associations.

Estimated Number of Respondents: 75.

Estimated Time per Response: 5 hours.

Total Annual Burden: 375 hours.

General Description of Collection:

State savings associations must furnish information to the FDIC to obtain approval or non-objection prior to engaging in certain activities or acquiring/retaining certain investments.

7. *Title:* Forms Relating to Outside Counsel, Legal Support and Expert Services Programs.

OMB Number: 3064-0122.

Form Numbers: 5000/24-29; 5000/31-35; 5200/01; 5210/01-15.

Frequency of Response: On occasion.

Affected Public: Those who wish to be or are providers of legal support services to the FDIC.

Estimated Number of Respondents: 4,603.

Estimated Time per Response: 0.8 hours.

Total Annual Burden: 3,711 hours.

General Description of Collection:

These forms facilitate the procurement of and payment for legal services; ensure compliance with statutory and regulatory requirements relating to disqualifying conditions or conflicts of interest; and monitor the participation of women and minorities in legal services contracts.

8. *Title:* CRA Sunshine.

OMB Number: 3064-0139.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks and their affiliates, and nongovernmental entities and persons.

Estimated Number of Respondents: 26.

Estimated Time per Response: 19.3 hours.

Total Annual Burden: 501.6 hours.

General Description of Collection:

This collection implements a statutory requirement imposing reporting, disclosure and recordkeeping requirements on some community reinvestment-related agreements between insured depository institutions or affiliates, and nongovernmental entities or persons.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection,

including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 16th day of February, 2007.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E7-3073 Filed 2-22-07; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 12, 2007.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *James E. Baxter, II*, Richmond, Virginia; *Betty L. Baxter*, Midlothian, Virginia; *James E. Baxter*, Spent Spring, Virginia; *John W. Wright*, Richmond, Virginia; *Curt D. Angstadt*, Glen Allen, Virginia; and *Debra J. Angstadt*, Glen Allen, Virginia (self-identified as the "Baxter Group"); to acquire voting shares of Premier Bancshares, Inc., Garland, Texas, and indirectly acquire voting shares of Synergy Bank, State Savings Bank, Waco, Texas.

Board of Governors of the Federal Reserve System, February 20, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7-3095 Filed 2-22-07; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM**Formations of, Acquisitions by, and Mergers of Bank Holding Companies**

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 22, 2007.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *C-B-G, Inc.*, West Liberty, Iowa; to acquire additional voting shares of Washington Bancorp, Washington, Iowa, for a total exceeding 25 percent, and thereby indirectly acquire voting shares of Federation Bank, Washington, Iowa.

2. *Community State Bank Employee Stock Ownership Plan and Trust*, Union Grove, Wisconsin; to increase its ownership of Union Bancorporation, Inc., Union Grove, Wisconsin, to 35.52 percent of the voting shares, and thereby increase its indirect ownership of Community State Bank, Union Grove, Wisconsin.

Board of Governors of the Federal Reserve System, February 20, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7-3096 Filed 2-22-07; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL TRADE COMMISSION

[File No. 052 3131]

DirectRevenue LLC, DirectRevenue Holdings LLC, Joshua Abram, Daniel Kaufman, Alan Murray, and Rodney Hook; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 21, 2007.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to “DirectRevenue LLC, *et al.*, File No. 052 3131 to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room 135-H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled “Confidential,” and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).¹ The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may

¹ The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

instead be filed in electronic form as part of or as an attachment to e-mail messages directed to the following e-mail box: consentagreement@ftc.gov.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

FOR FURTHER INFORMATION CONTACT:

Mamie Kresses (202/326-2070) or Stacey Ferguson (202/326-2361), Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for February 16, 2007), on the World Wide Web, at <http://www.ftc.gov/os/2007/02/index.htm>. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an

agreement containing a consent order from proposed respondents DirectRevenue LLC, DirectRevenue Holdings LLC, Joshua Abram, Daniel Kaufman, Alan Murray, and Rodney Hook, individually and as officers of DirectRevenue LLC (together, "the respondents"). The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

General Allegations

The respondents develop, market, and distribute via Internet downloads advertising software programs ("adware")—including programs with the names Aurora, Ceres, A Better Internet, OfferOptomizer, Twaintec, and Best Offers—that monitor consumers' Internet use in order to display targeted pop-up ads. This matter concerns allegations that the respondents: (1) Directly, and through a network of numerous affiliates and sub-affiliates, installed their adware on consumers' computers without adequate notice or consent; (2) through affiliates and sub-affiliates, installed their adware on consumers' computers entirely without notice or authorization; and (3) made their adware difficult for consumers to identify, locate, and remove.

The Commission's complaint alleges that in numerous instances the respondents, either directly or through their affiliates and sub-affiliates, purported to offer content to the public, such as games, screen-savers, peer-to-peer file sharing software, and/or computer utility programs ("lureware") and bundled the respondents' adware with that content. The complaint further alleges that consumers often have been unaware that the respondents' adware would be installed on their computers because it was not adequately disclosed to them that downloading the lureware would result in installation of the respondents' adware. Often, no reference to the adware was made on Web sites offering the lureware or in the install windows. In other instances, information about the effects of the respondents' adware could only be ascertained, if at all, by clicking on one or more inconspicuous hyperlinks to reach multi-page user agreements containing such information. These inconspicuous hyperlinks were located in the corner of Web site homepages or

in modal boxes provided by the computer's operating system.

The Commission's complaint also alleges that in numerous instances, the respondents, through affiliates and sub-affiliates, installed the respondents' adware on consumers' computers entirely without notice or authorization. The complaint cites as an example unauthorized installations conducted by the respondents' sub-affiliate, Seismic Entertainment Productions, Inc., via an executable file that exploited a vulnerability in Windows Media Player.

The Commission's complaint further alleges that the respondents made identifying, locating, and removing their adware extremely difficult for consumers. Among other practices, the respondents: failed to identify the name or source of the adware in pop-up ads to enable consumers to locate the adware on their computers; stored adware files in locations on consumers' hard drives that are rarely accessed by consumers, such as in the core systems software folders; failed to list the adware in the Windows Add/Remove utility (a customary location for user-initiated uninstall of software programs); where the adware was listed in the Windows Add/Remove utility, listed it under names resembling core systems software or applications; installed technology on consumers' computers to reinstall the adware when it had been uninstalled by consumers through the Windows Add/Remove utility or deleted by anti-spyware or anti-adware programs; and when a separate uninstall tool was provided, required consumers to follow a ten-step procedure including downloading additional software and deactivating firewalls, thereby exposing computers to security risks.

Deception Allegation

The Commission's complaint alleges that by offering content over the Internet such as browser upgrades, utilities, games, screensavers, peer-to-peer file sharing software and/or entertainment content, without disclosing adequately that this content was bundled with the respondents' adware, the respondents committed a deceptive practice. The bundling of the respondents' adware, which monitors consumers' Internet use and causes them to receive pop-up advertisements, would be material to consumers in their decision whether to download the other software programs and/or content.

Unfairness Allegations

The Commission's complaint also alleges that it was an unfair practice for the respondents to install on consumers'

computers, entirely without their knowledge or authorization, adware that could not be reasonably identified, located, or removed by consumers. In addition, the complaint alleges that it was an unfair practice, in and of itself, for the respondents not to provide consumers with a reasonable means to identify, locate, and remove the respondents' adware from their computers. The complaint further alleges that these practices have caused or are likely to cause substantial consumer injury that is not reasonably avoidable by consumers themselves and not outweighed by benefits to consumers or competition.

The Proposed Consent Order

The proposed consent order contains provisions designed to prevent the respondents from engaging in similar acts and practices in the future and to halt continuing harm caused by the respondents' prior unlawful practices.

Part I of the proposed order prohibits the respondents from displaying any advertisement to, or otherwise communicating with, any consumer's computer on which the respondents' adware was installed prior to October 1, 2005 ("legacy program"). Part I permits the respondents, within thirty days of entry of the final order, to send a maximum of three notices to legacy program users informing them: that, pursuant to the FTC settlement, they will no longer receive any advertising or communication from the respondents; how they may affirmatively authorize the respondents to continue serving advertisements if consumers so choose; and how they may fully remove the respondents' adware from their computers. If consumers fail to respond to the notice, the adware will remain inactive.

Parts II and III prohibit the respondents from, or assisting others in, installing software onto any computer by exploiting security vulnerabilities or downloading or installing any software program or application without consumers' express consent. "Express consent" is defined in the proposed order to require clear and prominent disclosure of material terms prior to and separate from any end user license agreement, and to require consumer activation of the download or installation by clicking a button or a substantially similar action.

Part IV requires the respondents to establish, implement, and maintain a clearly disclosed, user-friendly mechanism through which consumers can report and the respondents can timely address complaints regarding the respondents' practices.

Part V requires the respondents to establish, implement, and maintain a comprehensive program that is reasonably designed to require affiliates to obtain express consent before installing the respondents' software onto consumers' computers. Part V also contains sub-parts mandating certain measures the respondents must take to monitor their distribution network.

Part VI requires the respondents to identify advertisements served via the respondents' adware in order for consumers to easily locate the source of the advertisement, easily access the respondents' complaint mechanism, and access directions on how to uninstall such adware.

Part VII requires the respondents to provide reasonable and effective means for consumers to uninstall the respondents' adware.

Part IX requires the respondents to pay \$1.5 million to the Commission. This payment may be used in the Commission's sole discretion to provide appropriate relief, which may include, but is not limited to, the rescission of contracts, payment of damages, and/or public notification respecting such unfair or deceptive acts or practices. If the Commission determines that such relief is wholly or partially impracticable, any or all such funds shall be paid to the United States Treasury.

Part X requires the respondents to cooperate with the Commission in this action or any subsequent investigations related to or associated with the transactions or the occurrences that are the subject of the Complaint.

The remaining order provisions govern record retention (Part VIII), order distribution (Part XI), ongoing reporting requirements (Parts XII and XIII), filing a compliance report (Part XIV). Part XV provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission,
Commissioner Leibowitz dissenting.

Donald S. Clark,
Secretary.

Dissenting Statement of Commissioner Jon Leibowitz

In this consent agreement, Commission staff obtained strong injunctive relief that will put an end to practices that allowed DirectRevenue to foist unwanted software on untold

millions of consumers. The injunctive provisions, like those in Zango, Inc., f/k/a 180 Solutions, Inc., will serve as a model to adware companies in future. But the \$1.5 million in monetary relief that the Commission obtained as part of the consent agreement is a disappointment because it apparently leaves DirectRevenue's owners lining their pockets with more than \$20 million from a business model based on deceit. Ben Elgin with Brian Grow, *The Plot To Hijack Your Computer*, Business Week Online, available at http://www.businessweek.com/magazine/content/06_29/b3993001.htm?chan=search (July 17, 2006).

According to the Commission's complaint, DirectRevenue downloaded adware on consumers' computers—in many cases without notice and consent. In other instances, to entice consumers into downloading its nuisance adware that plagued consumers' computers with pop-ups, it even bundled the adware with software that was supposed to block pop-ups—the height of cynicism and disingenuousness. Moreover, the respondents went to great lengths to ensure that consumers could not uninstall this unwanted software, even employing ingenious (and malicious) technologies such as code that would reinstall it if the consumer attempted to remove it.

Even apart from the hundreds of thousands of hours people spent closing all of these pop-up ads, how many people lost important data because respondents' malware crashed their computer? How many people fruitlessly spent time trying to uninstall it? How many people junked perfectly good computers that were so burdened with unwanted adware that they were useless? One consumer captured the frustration and anger that consumers no doubt felt as they tried to deal with DirectRevenue's malware: “‘You people are EVIL personified,’ Kevin Horton wrote* * * ‘I would like the four hours of my life back I have wasted trying to get your stupid uninvited software off my now crippled system.’” *The Plot To Hijack Your Computer*, *supra*. Given the number of unwitting DirectRevenue “customers”—according to the New York Attorney General's complaint there were more than 150 million software installs, which likely served up literally billions of pop-ups²—Mr. Horton's

² On a separate note, I want to commend the New York Attorney General's office for its recent ground-breaking settlements—which included monetary relief—with Priceline, Travelocity, and Cingular Wireless in the context of its litigation against DirectRevenue. Among other things, the settlements require the companies to do due diligence before

experience could not have been unusual. Some of the troubles came home to roost: the software made the computer of one of DirectRevenue's own employees crash four times in one day, and the company had to send someone to fix a computer belonging to one of the company's venture capital investors. *Id.*

I recognize that staff was able to negotiate comprehensive injunctive relief that will halt these illegal practices once and for all. The proposed order, among other things, requires DirectRevenue to co-brand advertisements it serves and provide an effective method to uninstall their software—steps that should allow consumers unhappy with the pop-ups to identify their source and remove the software that generates them. Other provisions ensure that consumers get to choose whether they want the software in the first place. I also recognize that, in litigating this matter, staff would have been presented with novel issues that could pose risks.

That said, I cannot support a consent agreement that requires the respondents—particularly Joshua Abram, Daniel Kaufman, Alan Murray, and Rodney Hook, the officers and owners of DirectRevenue—to pay a total of only \$1.5 million. Venture capitalists poured more than \$20 million into DirectRevenue,³ and between the companies' ad revenues and the venture capital money, millions of dollars flowed into the owners' pockets—\$23 million, according to Business Week. See *The Plot To Hijack Your Computer*, *supra*. Settlement always involves compromise, and staff must weigh the advantages of a settlement with the risks and costs of litigation. But in cases like this, I would rather go to trial and risk losing than settle for a compromise that makes an FTC action just a cost of doing business.

[FR Doc. E7-3058 Filed 2-22-07; 8:45 am]

BILLING CODE 6750-01-P

advertising via adware, and periodically follow up to see how their online ads are being delivered. These settlements are important because advertising dollars fuel the demand side of the nuisance adware problem by giving companies like DirectRevenue and their affiliates and sub-affiliates the incentive to expand their installed base, with or without consumers' consent.

³ See, e.g., Brad Stone, *Invasion of the PC Snatchers*, Businessweek (Dec. 13, 2006), available at <http://www.msnbc.msn.com/id/6653413/site/newsweek/>.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Quality Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 6th meeting of the American Health Information Community Quality Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App.).

DATES: March 27, 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/quality/>.

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on how health information technology can provide the data needed for the development of quality measures that are useful to patients and others in the health care industry, automate the measurement and reporting of a comprehensive current and future set of quality measures, and accelerate the use of clinical decision support that can improve performance on those quality measures.

The meeting will be available via Web cast. For additional information, go to: http://www.hhs.gov/healthit/ahic/quality/quality_instruct.html.

Dated: February 12, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07-812 Filed 2-22-07; 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 Personalized Healthcare Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 3rd meeting of the American Health Information Community Personalized

Healthcare Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 93-463, 5 U.S.C., App.).

DATES: March 12, 2007, from 9 a.m. to 3 p.m.

ADDRESSES: Hubert H. Humphrey Building (200 Independence Avenue, SW., Washington, DC 20201, Conference Room 705A). Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: <http://www.hhs.gov/healthit/ahic/healthcare/>.

SUPPLEMENTARY INFORMATION: The Workgroup will begin discussion on possible common data standards to incorporate interoperable, clinically useful genetic laboratory test data, family history information, and analytical tools into Electronic Health Records (EHR) to support clinical decisionmaking for the health care provider and patient.

Instructions to participate via Web cast are posted at http://www.hhs.gov/healthit/ahic/healthcare/phe_instruct.html.

Dated: February 14, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07-813 Filed 2-22-07; 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 Consumer Empowerment Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 15th meeting of the American Health Information Community Consumer Empowerment Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App.)

DATES: March 16, 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/consumer/>.

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion

on how to encourage the widespread adoption of a personal health record that is easy-to-use, portable, longitudinal, affordable, and consumer-centered.

The meeting will be available via Web cast. For additional information, go to: http://www.hhs.gov/healthit/ahic/consumer/ce_instruct.html.

Dated: February 12, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07-814 Filed 2-22-07; 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 Electronic Health Records Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 14th meeting of the American Health Information Community Electronic Health Records Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App.).

DATES: March 20, 2007, from 1 p.m. to 4 p.m. (eastern).

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/healthrecords/>.

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on ways to achieve widespread adoption of certified EHRs, minimizing gaps in adoption among providers.

The meeting will be available via Web cast. For additional information, go to: http://www.hhs.gov/healthit/ahic/healthrecords/ehr_instruct.html.

Dated: February 12, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07-815 Filed 2-22-07; 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 Chronic Care Workgroup Meeting****ACTION:** Announcement of meeting.**SUMMARY:** This notice announces the 14th meeting of the American Health Information Community Chronic Care Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App.)**DATES:** March 22, 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:** <http://www.hhs.gov/healthit/ahic/chroniccare/>**SUPPLEMENTARY INFORMATION:** The Workgroup will continue its discussion on ways to deploy widely available, secure technologies solutions for remote monitoring and assessment of patients and for communication between clinicians about patients.The meeting will be available via Web cast. For additional information, go to: http://www.hhs.gov/healthit/ahic/chroniccare/cc_instruct.html

Dated: February 12, 2007.

Judith Sparrow,*Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.*

[FR Doc. 07-816 Filed 2-22-07; 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 Population Health and Clinical Care Connections Workgroup Meeting****ACTION:** Announcement of meeting.**SUMMARY:** This notice announces the 15th meeting of the American Health Information Community Population Health and Clinical Care Connections Workgroup [formerly BioSurveillance Workgroup] in accordance with the Federal Advisory Committee Act (Pub. L. no. 92-463, 5 U.S.C., App.)**DATES:** March 29, 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.hss.gov/healthit/ahic/population/>.**SUPPLEMENTARY INFORMATION:** The Workgroup will continue its discussion on how to facilitate the flow of reliable health information among population health and clinical care systems necessary to protect and improve the public's health.The meeting will be available via Web cast. For additional information, go to: http://www.hhs.gov/healthit/ahic/population/pop_instruct.html.

Dated: February 12, 2007.

Judith Sparrow,*Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.*

[FR Doc. 07-817 Filed 2-22-07; 8:45 am]

BILLING CODE 4150-24-M**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Centers for Disease Control and Prevention****[30Day-07-0242X]****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**

Estimating the Cost of Sigmoidoscopy and Colonoscopy for Colorectal Cancer Screening in U.S. Healthcare Facilities (SECOST) —New—National Center for Chronic Disease and Public Health Promotion (NCDDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Colorectal cancer (CRC) is the second leading cause of cancer-related deaths in the United States. In 2005, it was estimated that approximately 56,300 Americans died from CRC and about 145,300 new cases were diagnosed. The risk of developing CRC increases with advancing age. More than 90% of newly diagnosed CRCs occur in persons 50 years of age and older. Several scientific studies have demonstrated that regular screening for CRC reduces the incidence and mortality from this disease. Other studies have shown that regular screening for CRC is also cost-effective in terms of years of life saved.

Despite strong scientific evidence and evidence-based clinical guidelines recommending screening, current screening rates remain low. A recent CDC study reported that more than 40 million Americans who are 50 years of age or older and at average risk for CRC have not been screened in accordance with current guidelines. The study also reported that screening this population with current endoscopic (*i.e.*, flexible sigmoidoscopy and colonoscopy) capacity in the health care system could require as much as ten years to complete. An effective national effort to promote CRC screening could increase the demand for endoscopic procedures.

It has been reported that reimbursements for endoscopic procedures in publicly-funded programs may not be adequate to cover the costs of performing these procedures. This may be a disincentive for providers to perform endoscopy procedures. Currently, there is little information available about the resources required or the cost of providing these procedures in different types of healthcare facilities in the United States.

The purpose of this project is to conduct a survey of a nationally representative sample of healthcare facilities in order to estimate the average variable costs of providing colonoscopy and flexible sigmoidoscopy for CRC screening and follow-up services. Over time, payments need to cover fixed costs in addition to variable costs. If some facilities have the ability to provide more procedures without additional investment in space or equipment, then recovering fixed costs is not necessary at least in the short run. The estimated average variable cost by procedure will be compared to the reimbursement rates for both screening procedures in order to determine whether the payments to facilities exceed this minimum threshold. Otherwise, facilities will find reimbursement a potential barrier to expansion of CRC screening to

uninsured or underinsured populations even if there is underutilized capacity. The study will also determine whether there are factors that affect average variable costs across facilities such as the number of procedures performed, specialization in types of procedures or

other characteristics of the facility. Results of this study will be used to better understand the economics of colorectal cancer screening.

Respondents include medical facility receptionists, hospital operators, and office/business managers. The total estimated cost to respondents is

approximately \$72,800 assuming an hourly wage of \$37 for office/business managers and an hourly wage of \$11 for others during the study period. There are no costs to the respondents other than their time. The total estimated annualized burden hours are 2072.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Receptionist	Telephone screening survey	1,160	1	5/60
OPHD nurse manager	SECOST mail survey	1,000	1	1
ASC nurse manager	SECOST mail survey	725	1	1

Dated: February 16, 2007.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7-3099 Filed 2-22-07; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the Board of Scientific Counselors, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through February 3, 2009.

For information, contact Dr. Roger Rosa, Executive Secretary, Board of Scientific Counselors, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services, CDC/Washington Office, HHH Building, 200 Independence Ave., SW., Room 715H, MS P12, Washington, DC 20201—telephone 202/205-7856 or fax 202/260-4464.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the

Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: February 15, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7-3103 Filed 2-22-07; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panels (SEP): The Small Business Innovation Research (SBIR) 020, “New Laboratory Tests for Tuberculosis and Detection of Drug Resistance” and SRIB 021, “Development of Novel Information System for Remote Tuberculosis Control and Prevention”

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting.

Times and Dates: 1 p.m.–2 p.m., March 30, 2007 (Closed). 2 p.m.–4 p.m., March 30, 2007 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92-463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in

response to The Small Business Innovation Research (SBIR) 020, “New Laboratory Tests for Tuberculosis and Detection of Drug Resistance” and SRIB 021, “Development of Novel Information System for Remote Tuberculosis Control and Prevention.”

Contact Person for More Information: J. Felix Rogers, PhD, M.P.H., Scientific Review Administrator, Coordinating Center for Infectious Diseases, National Center for Immunization and Respiratory Diseases, Office of the Director, CDC, 1600 Clifton Road NE., Mailstop E05, Atlanta, GA 30333, Telephone 404.639.6101.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: February 15, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7-3102 Filed 2-22-07; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Environmental Health/Agency for Toxic Substances and Disease Registry

The Health Department Subcommittee of the Board of Scientific Counselors (BSC), Centers for Disease Control and Prevention (CDC), National Center for Environmental Health (NCEH)/Agency for Toxic Substances and Disease Registry (ATSDR): Teleconference Meeting.

¹ We expect that we will have to make 4,160 screening telephone calls to identify a sample of

1,250 HOPDs and 906 ASCs that are eligible for inclusion in the study.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention, NCEH/ATSDR announces the following teleconference meeting of the aforementioned subcommittee:

Times and Dates: 12:30 p.m.–2 p.m., March 19, 2007.

Place: Century Center, 1825 Century Boulevard, Atlanta, Georgia 30345.

Status: Open to the public, teleconference access limited only by availability of telephone ports.

Purpose: Under the charge of the Board of Scientific Counselors, NCEH/ATSDR the Health Department Subcommittee will provide the BSC, NCEH/ATSDR with advice and recommendations on local and State health department issues and concerns that pertain to the mandates and mission of NCEH/ATSDR.

Matters to be Discussed: The meeting will include a review of the agenda; approval of minutes from the last conference call; a discussion on identifying State and Local government issues; a discussion on bridging NCEH/ATSDR programs; public comment and the next steps for the Health Department Subcommittee.

Items are subject to change as priorities dictate.

Supplementary Information: This teleconference meeting is scheduled to begin at 12:30 p.m. Eastern Daylight Savings Time. To participate, please dial 877/315-6535 and enter conference code 383520. The public comment period is scheduled from 1:30 p.m.–1:40 p.m.

Contact Person for More Information: Shirley D. Little, Committee Management Specialist, NCEH/ATSDR, 1600 Clifton Road, Mail Stop E-28, Atlanta, GA 30303; telephone 404/498-0615, fax 404/498-0059; E-mail: slittle@cdc.gov. The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the ATSDR.

Dated: February 16, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7-3100 Filed 2-22-07; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-R-131, CMS-10219, CMS-10097, CMS-255, and CMS-437]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment.

Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. Type of Information Collection Request: Revision of a currently approved collection; **Title of Information Collection:** Advance Beneficiary Notice of Noncoverage (ABN); **Use:** Under section 1879 of the Social Security Act, a physician, provider, practitioner or supplier of items or services participating in the Medicare Program, or taking a claim on assignment, may bill a Medicare beneficiary for items or services usually covered under Medicare, but denied in an individual case under specific statutory exclusions, if they inform the beneficiary, prior to furnishing the service, that Medicare is likely to deny payment. 42 CFR 411.404(b) and (c), and 411.408(d)(2) and (f), require written notice be provided to inform beneficiaries in advance of potential liability for payment.

While the basic content of the ABN remains the same, there were several changes to the notice including but not limited to the following: (1) Revised, more user friendly language; (2) combining the two versions of the ABN, the General Use ABN, form CMS-R-131-G, and CMS-R-131-L, which was used specifically for physician-ordered

laboratory tests, into a single general notice meeting both needs; (3) adding the 1-800-MEDICARE number on the notice; (4) adding information about the beneficiary's right to demand Medicare be billed; (5) increasing the selection options to 3 from 2, to allow beneficiaries' the right to pay out of pocket when they desire; (6) allowing a place for other insurance information to be recorded; and (7) describing the significance of the signature; **Form Number:** CMS-R-131 (OMB#: 0938-0566); **Frequency:** Reporting: Weekly, Monthly, Yearly, Biennially and Occasionally; **Affected Public:** Business or other for-profit and not-for-profit institutions; **Number of Respondents:** 1,270,614; **Total Annual Responses:** 40,302,506; **Total Annual Hours:** 4,701,959.

2. Type of Information Collection Request: New collection; **Title of Information Collection:** Health Plan Employer Data And Information Set (HEDIS®); **Use:** The Centers for Medicare & Medicaid Services (CMS) collects quality performance measures in order to hold the Medicare managed care industry accountable for the care being delivered, to enable quality improvement, and to provide quality information to Medicare beneficiaries in order to promote an informed choice. It is critical to CMS' mission that we collect and disseminate information that will help beneficiaries choose among health plans, contribute to improved quality of care through identification of improvement opportunities, and assist CMS in carrying out its oversight and purchasing responsibilities.

In December 1997, OMB approved the request from CMS for the information collections under HEDIS® and assigned the agency form number CMS-R-200. The collections approved under that request included the HEDIS® collection (following the technical specifications contained in Volume 2, published by the National Committee for Quality Assurance (NCQA); the Health of Seniors/Health Outcomes Survey (HOS); and the Medicare CAHPS® survey. Since that approval there has been a change in the statutory authority as a result of the Balanced Budget Act of 1997. During the latter part of 2000, CMS instituted several policy changes regarding this collection which reduced burden substantially on the part of the managed care organizations and the process for finalizing and publishing that policy delayed the request for OMB approval. In addition, the renewal of OMB authority for the Medicare CAHPS survey was completed as a separate request. The HOS renewal was also submitted separately. This request is

solely for the approval of the HEDIS collection, which is now a stand alone collection. *Form Number:* CMS-10219 (OMB#: 0938-NEW); *Frequency:* Yearly; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 705; *Total Annual Responses:* 705; *Total Annual Hours:* 33,840.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Contractor Provider Satisfaction Survey (MCPSS); *Form No.:* CMS-10097 (OMB# 0938-0915); *Use:* The Centers for Medicare & Medicaid Services will obtain feedback from Medicare providers via a survey about satisfaction, attitudes and perceptions regarding the services provided by Medicare Fee-for-Service (FFS) Carriers, Fiscal Intermediaries, Durable Medical Equipment Suppliers, and Regional Home Health Intermediaries and Medicare Administrative Contractors. The survey focuses on basic business functions provided by the Medicare Contractors such as inquiries, provider communications, claims processing, appeals, provider enrollment, medical review and provider audit and reimbursement. Providers will receive a notice requesting they use a specially constructed Web site to respond to a set of questions customized for their contractor's responsibilities. The survey will be conducted yearly and annual reports of the survey results will be available via an online reporting system for use by CMS, Medicare Contractors, and the general public.

Due to changes in CMS' reporting needs, CMS is requesting a potential increase in the number of completed surveys. This increase will allow CMS to have not only Contractor-specific, but also jurisdiction and state-specific data which, in turn, will enable Contractors to increase and implement performance improvement activities within their organizations. This increase will affect the 2008 and 2009 administrations of the survey. *Frequency:* Reporting—Annually; *Affected Public:* Business or other for-profit, not-for-profit institutions; *Number of Respondents:* 24,279; *Total Annual Responses:* 24,279; *Total Annual Hours:* 8,346.

4. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Municipal Health Services Cost Report; *Form Number:* CMS-255 (OMB# 0938-0155); *Use:* In June 1978, the Robert Wood Johnson Foundation (RWJF) and Health Care Financing Administration (HCFA), now the Centers for Medicare and Medicaid Services (CMS), agreed to

collaborate in demonstrations and evaluations of new methods of delivering and reimbursing medical services in order to simultaneously increase access to primary care and decrease total health care costs per person served. The Municipal Health Services Program (MHSP) is the first of these cooperative efforts. The chief objective of the MHSP is to assist municipalities in providing health care services to medically underserved areas. By expanding existing programs of health departments and hospitals with a limited increase in a municipality's health budget, services traditionally provided by public health programs and hospital outpatient departments will be brought together in a single locality.

Participating clinics are reimbursed for all their routine costs based on the average cost per visit. Ancillary costs are paid according to 14 categories: Laboratory, x-ray, pharmacy, transportation, optometrist, dentist, audiologist, podiatrist, eyeglasses, dentures, devices, physical therapy, speech therapy, and occupational therapy. In order to determine the cost of the clinical services being provided, it is necessary to determine the direct and indirect cost incurred by the participating clinics for the routine and ancillary cost centers. For evaluation purposes, it is necessary to accurately identify the total visit count of the clinics for all patients and for Medicare patients. The MHSP CMS Form 255 cost report is the form that is being used to report the costs to the participating clinics of providing the covered services as well as to gather the data needed to properly evaluate the demonstration. *Frequency:* Recordkeeping and Reporting—Annually; *Affected Public:* Not-for-profit institutions; *Number of Respondents:* 14; *Total Annual Responses:* 14; *Total Annual Hours:* 476.

5. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Psychiatric Unit Criteria Worksheet and Supporting Regulations at 42 CFR 412.25 and 412.27. *Form Number:* CMS-437 (OMB# 0938-0358); *Use:* The psychiatric unit criteria worksheets are necessary to verify that these units comply and remain in compliance with the exclusion criteria for the Medicare prospective payment system. *Frequency:* Reporting—Annually; *Affected Public:* Business or other for-profit, not-for-profit institutions, and State, Local and Tribal Government; *Number of Respondents:* 1333; *Total Annual Responses:* 1333; *Total Annual Hours:* 333.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at <http://www.cms.hhs.gov/PaperworkReductionActof1995>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@cms.hhs.gov, or call the Reports Clearance Office on (410) 786-1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received at the address below, no later than 5 p.m. on April 24, 2007: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development—C, Attention: Bonnie L Harkless, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: February 13, 2007.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E7-3026 Filed 2-22-07; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10148]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to

minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* HIPAA Administrative Simplification Enforcement Non-Privacy Enforcement; *Use:* The Health Insurance Portability and Accountability Act (HIPAA) became law in 1996 (Pub. L. 104-191). Subtitle F of Title II of HIPAA, entitled "Administrative Simplification," requires the Secretary of HHS to adopt national standards for certain information-related activities of the health care industry. The HIPAA provisions, by statute, apply only to "covered entities" referred to in section 1320d-2(a)(1) of this title. Responsibility for administering and enforcing the HIPAA Administrative Simplification Transactions, Code Sets, Identifiers and Security rules has been delegated to CMS. The initial information collected to enforce these rules will be used to initiate enforcement actions. This information collection change clarifies the "Identify the HIPAA Non-Privacy complaint category" section of the complaint form. In this section, complainants are given an opportunity to check the "Unique Identifiers" option to categorize the type of HIPAA complaint being filed. The revised form now includes a "'For a Unique Identifier Complaint" section, that allows a complaint to further categorize their identifier complaint as either a "National Provider Identifier (NPI)" or an "Employer Identification Number (EIN)" complaint. *Form Number:* CMS-10148 (OMB#: 0938-948); *Frequency:* Reporting—On occasion; *Affected Public:* Individuals or households, Business or other for-profit, Not-for-profit institutions, and State, Local, or Tribal governments; *Number of Respondents:* 500; *Total Annual Responses:* 500; *Total Annual Hours:* 500.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at <http://www.cms.hhs.gov/PaperworkReductionActof1995>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@cms.hhs.gov, or call the Reports Clearance Office on (410) 786-1326.

Written comments and recommendations for the proposed information collections must be mailed or faxed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Carolyn Lovett, New

Executive Office Building, Room 10235, Washington, DC 20503, Fax Number: (202) 395-6974.

Dated: February 13, 2007.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E7-3028 Filed 2-22-07; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-2540-96]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Skilled Nursing Facility and Skilled Nursing Facility Complex Cost Report; *Use:* Providers of services participating in the Medicare program are required under sections 1815(a) and 1861(v)(1)(A) of the Social Security Act to submit annual information to achieve settlement of costs for health care services rendered to Medicare beneficiaries. The CMS-2540-96 cost report is needed to determine the amount of reimbursement, that is due these providers furnishing medical services to Medicare beneficiaries; *Form Number:* CMS-2540-96 (OMB#: 0938-0463); *Frequency:* Reporting—Yearly; *Affected Public:* Business or other for-

profit; *Number of Respondents:* 15,037; *Total Annual Responses:* 15,037; *Total Annual Hours:* 2,947,252.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at <http://www.cms.hhs.gov/PaperworkReductionActof1995>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@cms.hhs.gov, or call the Reports Clearance Office on (410) 786-1326.

Written comments and recommendations for the proposed information collections must be mailed or faxed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Carolyn Lovett, New Executive Office Building, Room 10235, Washington, DC 20503, Fax Number: (202) 395-6974.

Dated: February 13, 2007.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E7-3032 Filed 2-22-07; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-1542-N]

Medicare Program; Announcement of New Members to the Advisory Panel on Ambulatory Payment Classification (APC) Groups

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (DHHS).

ACTION: Notice.

SUMMARY: This notice announces five new members selected to serve on the Advisory Panel on Ambulatory Payment Classification (APC) Groups (the Panel). The purpose of the Panel is to review the APC groups and their associated weights and to advise the Secretary, DHHS, (the Secretary) and the Administrator, CMS, (the Administrator) concerning the clinical integrity of the APC groups and their associated weights. We will consider the Panel's advice as we prepare the annual updates of the hospital outpatient prospective payment system (OPPS).

FURTHER INFORMATION CONTACT: For inquiries about the Panel, please contact

the Designated Federal Official (DFO): Shirl Ackerman-Ross, DFO, CMS, CMM, HAPG, DOC, 7500 Security Boulevard, Mail Stop C4-05-17, Baltimore, MD 21244-1850, Phone (410) 786-4474.

E-Mail Address: The E-mail address for the Panel is as follows: *CMS APCPanel@cms.hhs.gov*. News media representatives must contact our Public Affairs Office at (202) 690-6145.

Advisory Committees' Information Lines: The CMS Advisory Committees' Information Line is 1-877-449-5659 (toll free) and (410) 786-9379 (local).

Web Site: For additional information regarding the APC Panel membership, meetings, agendas, and updates to the Panel's activities, please search our Web site at the following: *http://www.cms.hhs.gov/FACA/05*

_AdvisoryPanelonAmbulatoryPaymentClassificationGroups.asp. A copy of the Panel's Charter is on that Web site. You may also e-mail the Panel DFO at the above-mentioned e-mail address for a copy of the Charter.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary is required by section 1833(t)(9)(A) of the Social Security Act (the Act), [as amended by section 201(h) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (BBRA) (Pub. L. 106-113), and redesignated by section 202(a)(2) of the BBRA] to consult with an expert outside advisory panel regarding the clinical integrity of the APC groups and weights that are components of the hospital OPSS.

The APC Panel meets up to three times annually. The Charter requires that the Panel must be fairly balanced in its membership in terms of the points of view represented and the functions to be performed. The Panel shall consist of up to 15 members who are representatives of providers and a Chair. Each Panel member must be employed

full-time by a hospital, hospital system, or other Medicare provider subject to payment under the OPSS. The Secretary or Administrator selects the Panel membership based upon either self-nominations or nominations submitted by Medicare providers and other interested organizations. All members must have technical expertise to enable them to participate fully in the work of the Panel. This expertise encompasses hospital payment systems; hospital medical-care delivery systems; provider billing systems; APC groups; Current Procedural Terminology and alphanumeric Healthcare Common Procedure Coding System codes; and the use and payment of drugs and medical devices in the outpatient setting, as well as other forms of relevant expertise.

The Charter requires that all members have a minimum of 5 years experience in their area(s) of expertise, but it is not necessary that any member be an expert in all of the areas listed above. For purposes of this Panel, consultants or independent contractors are not considered to be full-time employees of hospitals, hospital systems, or other Medicare providers that are subject to the OPSS. Panel members serve up to 4-year terms. A member may serve after the expiration of his or her term until a successor has been sworn in. All terms are contingent upon the renewal of the Panel's Charter by appropriate action before its termination. The Secretary re-chartered the APC Panel effective November 21, 2006.

II. Announcement of New Members

The Panel may consist of a Chair and up to 15 Panel members who serve without compensation, according to an advance written agreement. Travel, meals, lodging, and related expenses for the meeting are reimbursed in accordance with standard Government travel regulations. We have a special interest in ensuring that women, minorities, representatives from various

geographical locations, and the physically challenged are adequately represented on the Panel.

The Secretary, or his designee, appoints new members to the Panel from among those candidates determined to have the required expertise. New appointments are made in a manner that ensures a balanced membership.

The Panel presently consists of the following 13 members and a Chair:

- Edith Hambrick, M.D., J.D., Chair
- Gloryanne Bryant, B.S., R.H.I.A., R.H.I.T., C.C.S.
- Albert Brooks Einstein, Jr., M.D.
- Hazel Kimmel, R.N., C.C.S., C.P.C.
- Sandra J. Metzler, M.B.A., R.H.I.A., C.P.H.Q.
- Frank G. Opelka, M.D., F.A.C.S.
- Louis Potters, M.D., F.A.C.R.
- Lou Ann Schraffenberger, M.B.A., R.H.I.A., C.C.S.-P.
- Judie S. Snipes, R.N., M.B.A., F.A.C.H.E.
- Timothy Gene Tyler, Pharm.D.
- Thomas M. Munger, M.D., F.A.C.C.
- James V. Rawson, M.D.
- Kim Allan Williams, M.D., F.A.C.C., F.A.B.C.
- Robert Matthew Zwolak, M.D., Ph.D., F.A.C.S.

On November 22, 2006, we published the notice titled "Request for Nominations to the Advisory Panel on Ambulatory Payment Classification Groups," (CMS-1305-N) in the **Federal Register** requesting nominations to the Panel replacing Panel members whose terms would expire by September 30, 2007. As a result of that **Federal Register** notice, we are announcing five new members to the Panel. Two new 3½-year appointments commence on March 1, 2007; two new 3½-year appointments commence on April 1, 2007; and one new 4-year appointment commences on October 1, 2007, as indicated below:

New panel members	Terms
Patricia Spencer-Cisek, M.S	03/01/2007-09/30/2010
Russ Ranallo, M.S., B.S	03/01/2007-09/30/2010
Beverly Philip, M.D	04/01/2007-09/30/2010
Michael A. Ross, M.D	04/01/2007-09/30/2010
Agatha L. Nolen, M.S., D.Ph	10/01/2007-09/30/2011

Authority: Section 1833(t) of the Act (42 U.S.C. 1395l(t)). The Panel is governed by the provisions of Pub. L. 92-463, as amended (5 U.S.C. Appendix 2). (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance; and Program No. 93.774, Medicare-Supplementary Medical Insurance Program).

Dated: February 15, 2007.

Leslie V. Norwalk,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E7-3040 Filed 2-22-07; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-2221-N]

RIN 0938-ZA98

Medicare, Medicaid, and CLIA Programs; Approval of COLA (Formerly the Commission on Office Laboratory Accreditation) as a CLIA Accreditation Organization

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

ACTION: Notice.

SUMMARY: In this notice, we grant COLA (formerly the Commission on Office Laboratory Accreditation) deeming authority as an accrediting organization for clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program. We have determined that the requirements of the COLA accreditation process are equal to or more stringent than the CLIA condition level requirements, and that COLA has met the requirements of subpart E of 42 CFR Part 493. Consequently, laboratories that are voluntarily accredited by COLA and continue to meet COLA requirements will be deemed to meet the CLIA condition-level requirements for laboratories and therefore are not subject to routine inspection by State survey agencies to determine their compliance with Federal requirements. They are, however, subject to Federal validation and complaint investigation surveys conducted by us or our designee.

DATES: *Effective Date:* This notice is effective from February 23, 2007 to February 25, 2013.

FOR FURTHER INFORMATION CONTACT: Raelene Peretto, (410) 786-6876.

SUPPLEMENTARY INFORMATION:

I. Background and Legislative Authority

On October 31, 1988, the Congress enacted the Clinical Laboratory Improvement Amendments of 1988 (CLIA), Public Law 100-578. CLIA replaced in its entirety section 353(e)(2) of the Public Health Service Act, as enacted by the Clinical Laboratories Improvement Act of 1967. We issued a final rule implementing the accreditation provisions of CLIA on July 31, 1992, (57 FR 33992). Under the CLIA program, CMS approves a grant of deeming authority to an accreditation organization to accredit clinical laboratories if the organization meets certain requirements. An organization's requirements for accredited laboratories must be equal to, or more stringent than, the applicable CLIA program requirements in 42 CFR part 493 (Laboratory Requirements). The regulations in subpart E (Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program) specify the requirements an accreditation organization must meet to be an approved accreditation organization. We approve an accreditation organization for a period not to exceed 6 years.

In general, the approved accreditation organization must:

- Use inspectors qualified to evaluate laboratory performance and agree to inspect laboratories with the frequency determined by us.
- Apply standards and criteria that are equal to, or more stringent than, those condition-level requirements established by us.
- Assure that laboratories accredited by the accreditation organization continually meet these standards and criteria.
- Provide us with the name of any laboratory that has had its accreditation denied, suspended, withdrawn, limited, or revoked within 30 days of the action taken.
- Notify us at least 30 days before implementing any proposed changes in its standards.
- If we withdraw our approval, notify the accredited laboratories of the withdrawal within 10 days of the withdrawal.

CLIA requires that we perform an annual evaluation by inspecting a sufficient number of laboratories accredited by an approved accreditation organization as well as by any other means that we determine to be appropriate.

II. Notice of Approval of COLA as an Accreditation Organization

In this notice, we approve COLA (formerly the Commission on Office Laboratory Accreditation) as an organization that may accredit laboratories for purposes of establishing their compliance with CLIA requirements. We have examined the COLA application and all subsequent submissions to determine equivalency with our requirements under subpart E of part 493 that an accreditation organization must meet to be approved under CLIA. We have determined that COLA complied with the applicable CLIA requirements and grant COLA approval as an accreditation organization under subpart E, as for the period stated in the "Effective Date" section of this notice for the following specialty and subspecialty areas:

- Microbiology, including Bacteriology, Mycobacteriology, Mycology, Parasitology, Virology.
- Diagnostic Immunology, including Syphilis Serology, General Immunology.
- Chemistry, including Routine Chemistry, Urinalysis, Endocrinology, Toxicology.
- Hematology.
- Immunohematology, including ABO Group & Rh Group, Antibody Detection, Antibody Identification, Compatibility Testing.
- Pathology, including Histopathology, Oral Pathology, Cytology.

As a result of this determination, any laboratory that is accredited by COLA during the effective time period for an approved specialty or subspecialty is deemed to meet the CLIA requirements for the laboratories found in part 493 of our regulations and, therefore, is not subject to routine inspection by a State survey agency to determine its compliance with CLIA requirements. The accredited laboratory, however, is subject to validation and complaint investigation surveys performed by us, or by any other validly authorized agent.

III. Evaluation of COLA Request for Approval as an Accreditation Organization Under CLIA

The following describes the process used to determine that requirements of the COLA accreditation program are equal to or more stringent than the CLIA condition level requirements, and that COLA has met the requirements of subpart E of 42 CFR part 493.

COLA formally reapplied to us for approval as an accreditation organization under CLIA for the following specialties and subspecialties:

- Microbiology, including Bacteriology, Mycobacteriology, Mycology, Parasitology, Virology.
- Diagnostic Immunology, including Syphilis Serology, General Immunology.
- Chemistry, including Routine Chemistry, Urinalysis, Endocrinology, Toxicology.
- Hematology.
- Immunohematology, including ABO Group & Rh Group, Antibody Detection, Antibody Identification, Compatibility Testing.
- Pathology, including Histopathology, Oral Pathology, Cytology.

We evaluated the COLA application to meet or exceed our implementing and enforcement regulations, and the deeming/exemption requirements of the CLIA rules.

We verified that the COLA accreditation program requirements and methods require the laboratories it accredits to be, and that the organization meets or exceeds the following subparts of part 493 as explained below:

Subpart E—Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program

COLA submitted the specialties and subspecialties that it would accredit; a comparison of individual accreditation and condition-level requirements; a description of its inspection process; proficiency testing (PT) monitoring process; its data management and analysis system; a listing of the size, composition, education and experience of its inspection teams; its investigative and complaint response procedures; its notification agreements with us; its removal or withdrawal of laboratory accreditation procedures; its current list of accredited laboratories; and its announced or unannounced inspection process.

Subpart H—Participation in Proficiency Testing for Laboratories Performing Nonwaived Testing

COLA's requirements are equal to the CLIA requirements at § 493.801 through § 493.865. Like CLIA, all of COLA's accredited laboratories are required to participate in a CMS-approved proficiency test (PT) program for any of tests listed in subpart I. COLA also encourages its accredited laboratories to participate in PT for tests that are waived under CLIA.

Subpart J—Facility Administration for Nonwaived Testing

COLA requirements are equal to the CLIA requirements at § 493.1100 through § 493.1105.

Subpart K—Quality System for Nonwaived Testing

COLA requirements are equal to the CLIA requirements at § 493.1200 through § 493.1299. COLA makes educational material available to its accredited laboratories, which provide further information on quality assurance. As part of good laboratory practice and to ensure accuracy, COLA encourages development of a QC program for tests that are waived under CLIA.

Subpart M—Personnel for Nonwaived Testing

COLA states as general policy that its personnel standards for accreditation are identical to CLIA. A qualified individual must fulfill the responsibilities of each required position in the laboratory. The laboratory director and laboratory personnel must meet educational and experience requirements. Although certain duties of the laboratory director may be delegated to qualified individuals, the laboratory director remains ultimately responsible. We have determined that COLA requirements are equal to the CLIA requirements at § 493.1403 through § 493.1495 for laboratories that perform moderate and high complexity testing.

Subpart Q—Inspections

We have determined that the COLA requirements are equal to the CLIA requirements at § 493.1771 through § 493.1780. COLA will continue to perform onsite inspections every 2 years.

Subpart R—Enforcement Procedures

COLA meets the requirements of subpart R to the extent that it applies to accreditation organizations. COLA policy sets forth the actions the organization takes when laboratories it accredits do not comply with its requirements and standards for accreditation. When appropriate, COLA will deny, suspend, or revoke accreditation in a laboratory accredited by COLA and report that action to us within 30 days. COLA also provides an appeal process for laboratories that have had accreditation denied, suspended, or revoked.

We have determined that COLA's laboratory enforcement and appeal policies are equal to the requirements of part 493 subpart R as they apply to accreditation organizations.

IV. Federal Validation Inspections and Continuing Oversight

The Federal validation inspections of COLA accredited laboratories may be

conducted on a representative sample basis or in response to substantial allegations of noncompliance (that is, complaint inspections). The outcome of those validation inspections, performed by us or our agents, the State survey agencies, will be our principal means for verifying that the laboratories accredited by COLA remain in compliance with CLIA requirements. This Federal monitoring is an ongoing process.

V. Removal of Approval as an Accrediting Organization

Our regulations provide that we may rescind the approval of an accreditation organization, such as that of COLA, for cause, before the end of the effective date of approval. If we determine that COLA failed to adopt requirements that are equal to, or more stringent than, the CLIA requirements, or that systemic problems exist in its inspection process, we may give it a probationary period, not to exceed 1 year to allow COLA to adopt comparable requirements.

Should circumstances result in our withdrawal of the COLA's approval, we will publish a notice in the **Federal Register** explaining the basis for removing its approval.

VI. Collection of Information Requirements

This notice does not impose any information collection and record keeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with the accreditation process for clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program, codified in 42 CFR part 493 subpart E, are currently approved by OMB under OMB approval number 0938-0686.

VII. Executive Order 12866 Statement

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

Authority: Section 353 of the Public Health Service Act (42 U.S.C. 263a).

Dated: December 7, 2006.

Leslie V. Norwalk,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E7-3025 Filed 2-22-07; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-2218-N]

RIN 0938-ZA99

Medicare, Medicaid, and CLIA Programs; Approval of the Joint Commission (Formerly the Joint Commission on Accreditation of Healthcare Organizations) as a CLIA Accreditation Organization

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

ACTION: Notice.

SUMMARY: This notice announces CMS' grant of deeming authority to the Joint Commission (formerly the Joint Commission on Accreditation of Healthcare Organizations) under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program. We have determined that the requirements of the Joint Commission accreditation process are equal to or more stringent than the CLIA condition level requirements, and that the Joint Commission has met the requirements of subpart E of 42 CFR part 493. Consequently, laboratories that are voluntarily accredited by the Joint Commission and continue to meet the Joint Commission requirements will be deemed to meet the CLIA condition level requirements for laboratories and therefore are not subject to routine inspection by State survey agencies to determine their compliance with Federal requirements. They are, however, subject to Federal validation and complaint investigation surveys conducted by us or our designee.

DATES: *Effective Date:* This notice is effective from February 23, 2007 to February 23, 2012.

FOR FURTHER INFORMATION CONTACT: Kathleen Todd, (410) 786-3385.

SUPPLEMENTARY INFORMATION:

I. Background and Legislative Authority

On October 31, 1988, the Congress enacted the Clinical Laboratory Improvement Amendments of 1988 (CLIA), Public Law 100-578. CLIA replaced in its entirety section 353(e)(2) of the Public Health Service Act, as enacted by the Clinical Laboratories Improvement Act of 1967. We issued a final rule implementing the accreditation provisions of CLIA on July 31, 1992, (57 FR 33992). Under the CLIA program, CMS approves a grant of deeming authority to an accreditation

organization to accredit clinical laboratories if the organization meets certain requirements. An organization's requirements for accredited laboratories must be equal to, or more stringent than, the applicable CLIA program requirements in 42 CFR part 493 (Laboratory Requirements). The regulations in subpart E (Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program) specify the requirements an accreditation organization must meet to be an approved accreditation organization. We approve an accreditation organization for a period not to exceed 6 years.

In general, the approved accreditation organization must:

- Use inspectors qualified to evaluate laboratory performance and agree to inspect laboratories with the frequency determined by us.
- Apply standards and criteria that are equal to, or more stringent than those condition level requirements established by us.
- Assure that laboratories accredited by the accreditation organization continually meet these standards and criteria.
- Provide us with the name of any laboratory that has had its accreditation denied, suspended, withdrawn, limited, or revoked within 30 days of the action taken.
- Notify us at least 30 days before implementing any proposed changes in its standards.
- If we withdraw our approval, notify the accredited laboratories of the withdrawal within 10 days of the withdrawal.

CLIA requires that we perform an annual evaluation by inspecting a sufficient number of laboratories accredited by an approved accreditation organization as well as by any other means that we determine to be appropriate.

II. Notice of Approval of the Joint Commission as an Accreditation Organization

In this notice, we approve the Joint Commission as an organization that may accredit laboratories for purposes of establishing their compliance with CLIA requirements. We have examined the Joint Commission application and all subsequent submissions to determine equivalency with our requirements under subpart E of part 493 that an accreditation organization must meet to be approved under CLIA. We have determined that the Joint Commission complied with the applicable CLIA requirements and grant the Joint

Commission deeming authority as an accreditation organization under subpart E, for the period stated in the "Effective Date" section of this notice for all specialty and subspecialty areas under CLIA.

As a result of this determination, any laboratory that is accredited by the Joint Commission during the effective time period for an approved specialty or subspecialty is deemed to meet the CLIA requirements for the laboratories found in part 493 of our regulations and, therefore, is not subject to routine inspection by a State survey agency to determine its compliance with CLIA requirements. The accredited laboratory, however, is subject to validation and complaint investigation surveys performed by us, or by any other validly authorized agent.

III. Evaluation of the Joint Commission Request for Approval as an Accreditation Organization Under CLIA

The following describes the process used to determine that requirements of the Joint Commission accreditation program are equal to or more stringent than the CLIA condition level requirements, and that the Joint Commission has met requirements of subpart E of 42 CFR part 493.

The Joint Commission formally reapplied to us for approval as an accreditation organization under CLIA for all specialties and subspecialties. We evaluated the Joint Commission application to determine compliance with our implementing and enforcement regulations, and the deeming/exemption requirements of the CLIA rules.

We verified that the Joint Commission accreditation program requirements and methods require the laboratories it accredits to be, and that the organization meets or exceeds the following subparts of part 493 as explained below:

Subpart E—Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program

The Joint Commission submitted the specialties and subspecialties that it would accredit; a comparison of individual accreditation and condition level requirements; a description of its inspection process; proficiency testing (PT) monitoring process; its data management and analysis system; a listing of the size, composition, education and experience of its inspection teams; its investigative and complaint response procedures; its notification agreements with us; its removal or withdrawal of laboratory accreditation procedures; its current list

of accredited laboratories; and its announced or unannounced inspection process.

Our evaluation identified Joint Commission requirements pertaining to waived testing that are more stringent than the CLIA requirements. The Joint Commission waived testing requirements include the following:

- Defining the extent that waived test results are used in patient care.
- Identifying the personnel responsible for performing and supervising waived testing.
- Assuring that personnel performing waived testing have adequate, specific training and orientation to perform the testing and can demonstrate satisfactory levels of performance.
- Making certain that policies and procedures governing waived testing-related processes are current and readily available.
- Conducting defined quality control checks.
- Maintaining quality control and test records.

The CLIA requirements at § 493.15 only require that a laboratory follow manufacturer's instructions and obtain a certificate of waiver.

Subpart H—Participation in Proficiency Testing for Laboratories Performing Nonwaived Testing

The Joint Commission's requirements are equal to the CLIA requirements at § 493.801 through § 493.865.

Subpart J—Facility Administration for Nonwaived Testing

The Joint Commission requirements are equal to the CLIA requirements at § 493.1100 through § 493.1105.

Subpart K—Quality System for Nonwaived Testing

The Joint Commission requirements are equal to or more stringent than the CLIA requirements at § 493.1200 through § 493.1299. We have determined that Joint Commission's requirements, when taken as a whole, are more stringent than the CLIA requirements. For instance, the Joint Commission has control procedure requirements for all waived complexity testing performed.

Subpart M—Personnel for Nonwaived Testing

We have determined that the Joint Commission requirements are equal to or more stringent than the CLIA requirements at § 493.1403 through § 493.1495 for laboratories that perform moderate and high complexity testing.

Subpart Q—Inspections

We have determined that the Joint Commission requirements are equal to or more stringent than the CLIA requirements at § 493.1771 through § 493.1780. The Joint Commission will continue to perform onsite inspections every 2 years.

Subpart R—Enforcement Procedures

The Joint Commission meets the requirements of subpart R to the extent that it applies to accreditation organizations. The Joint Commission policy sets forth the actions the organization takes when laboratories it accredits do not comply with its requirements and standards for accreditation. When appropriate, the Joint Commission will deny, suspend, or revoke accreditation in a laboratory accredited by the Joint Commission and report that action to us within 30 days. The Joint Commission also provides an appeal process for laboratories that have had accreditation denied, suspended, or revoked.

We have determined that the Joint Commission's laboratory enforcement and appeal policies are equal to or more stringent than the requirements of part 493 subpart R as they apply to accreditation organizations.

IV. Federal Validation Inspections and Continuing Oversight

The Federal validation inspections of Joint Commission accredited laboratories may be conducted on a representative sample basis or in response to substantial allegations of noncompliance (that is, complaint inspections). The outcome of those validation inspections, performed by us or our agents, or the State survey agencies, will be our principal means for verifying that the laboratories accredited by the Joint Commission remain in compliance with CLIA requirements. This Federal monitoring is an ongoing process.

V. Removal of Approval as an Accrediting Organization

Our regulations provide that we may rescind the approval of an accreditation organization, such as that of the Joint Commission, for cause, before the end of the effective date of approval. If we determine that the Joint Commission failed to adopt requirements that are equal to, or more stringent than, the CLIA requirements, or that systemic problems exist in its inspection process, we may give it a probationary period, not to exceed 1 year to allow the Joint Commission to adopt comparable requirements.

Should circumstances result in our withdrawal of the Joint Commission's approval, we will publish a notice in the **Federal Register** explaining the basis for removing its approval.

VI. Collection of Information Requirements

This notice does not impose any information collection and record keeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with the accreditation process for clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program, codified in 42 CFR part 493 subpart E, are currently approved by OMB under OMB approval number 0938–0686.

VII. Executive Order 12866 Statement

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

Authority: Section 353 of the Public Health Service Act (42 U.S.C. 263a).

Dated: December 7, 2006.

Leslie V. Norwalk,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E7–3030 Filed 2–22–07; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1391–NC]

Medicare and Medicaid Programs; Announcement of an Application From a Hospital Requesting Waiver for Organ Procurement Service Area

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

ACTION: Notice with comment period.

SUMMARY: This notice announces a hospital's request for a waiver from entering into an agreement with its designated organ procurement organization (OPO), in accordance with section 1138(a)(2) of the Social Security Act (the Act). This notice requests comments from OPOs and the general public for our consideration in determining whether we should grant the requested waiver.

DATES: *Comment Date:* To be assured consideration, comments must be

received at one of the addresses provided below, no later than 5 p.m. on April 24, 2007.

ADDRESSES: In commenting, please refer to file code CMS-1391-NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to <http://www.cms.hhs.gov/eRulemaking>. Click on the link "Submit electronic comments on CMS regulations with an open comment period." (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.)

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-1391-NC, P.O. Box 8017, Baltimore, MD 21244-8017.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-1391-NC, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786-9994 in advance to schedule your arrival with one of our staff members. Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; or 7500 Security Boulevard, Baltimore, MD 21244-1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or

courier delivery may be delayed and received after the comment period.

FOR FURTHER INFORMATION CONTACT: Mark A. Horney, (410) 786-4554.

SUPPLEMENTARY INFORMATION:

Submitting Comments: We welcome comments from the public on all issues set forth in this proposed notice to assist us in fully considering the issues. You can assist us by referencing the file code CMS-1391-NC and the specific "issue identifier" that precedes the section on which you choose to comment.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all electronic comments received before the close of the comment period on its public Web site as soon as possible after they have been received: <http://www.cms.hhs.gov/eRulemaking>. Click on the link "Electronic Comments on CMS Regulations" on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1-800-743-3951.

I. Background

[If you choose to comment on issues in this section, please include the caption "BACKGROUND" at the beginning of your comments.]

Organ Procurement Organizations (OPOs) are not-for-profit organizations that are responsible for the procurement, preservation, and transport of transplantable organs to transplant centers throughout the country. Qualified OPOs are designated by the Centers for Medicare & Medicaid Services (CMS) to recover or procure organs in CMS-defined exclusive geographic service areas, according to section 371(b)(1)(F) of the Public Health Service Act (42 U.S.C. 273(b)(1)(F)) and our regulations at 42 CFR 486.306. Once an OPO has been designated for an area, hospitals in that area that participate in Medicare and Medicaid are required to work with that OPO in providing organs for transplant, according to section 1138(a)(1)(C) of the Social Security Act (the Act), and our regulations at 42 CFR 482.45.

Section 1138(a)(1)(A)(iii) of the Act provides that a hospital must notify the designated OPO (for the service area in which it is located) of potential organ donors. Under section 1138(a)(1)(C) of the Act, every participating hospital must have an agreement to identify potential donors only with its designated OPO.

However, section 1138(a)(2)(A) of the Act provides that a hospital may obtain from the Secretary, a waiver of the above requirements under certain specified conditions. A waiver allows the hospital to have an agreement with an OPO other than the one initially designated by CMS, if the hospital meets certain conditions specified in section 1138(a)(2)(A) of the Act. In addition, the Secretary may review additional criteria described in section 1138(a)(2)(B) of the Act to evaluate the hospital's request for a waiver.

Section 1138(a)(2)(A) of the Act states that in granting a waiver, the Secretary must determine that the waiver—(1) is expected to increase organ donations; and (2) will ensure equitable treatment of patients referred for transplants within the service area served by the designated OPO and within the service area served by the OPO with which the hospital seeks to enter into an agreement under the waiver. In making a waiver determination, section 1138(a)(2)(B) of the Act provides that the Secretary may consider, among other factors: (1) Cost-effectiveness; (2) improvements in quality; (3) whether there has been any change in a hospital's designated OPO due to the changes made in definitions for metropolitan statistical areas; and (4) the length and continuity of a hospital's relationship with an OPO other than the hospital's designated OPO. Under section 1138(a)(2)(D) of the Act, the Secretary is required to publish a notice of any waiver application received from a hospital within 30 days of receiving the application, and to offer interested parties an opportunity to comment in writing during the 60-day period beginning on the publication date in the **Federal Register**.

The criteria that the Secretary uses to evaluate the waiver in these cases are the same as those described above under sections 1138(a)(2)(A) and (B) of the Act and have been incorporated into the regulations at 42 CFR 486.308(e) and (f).

II. Waiver Request Procedures

[If you choose to comment on issues in this section, please include the caption "Waiver Request Procedures" at the beginning of your comments.]

In October 1995, we issued a Program Memorandum (Transmittal No. A-95-

11) detailing the waiver process and discussing the information that hospitals must provide in requesting a waiver. We indicated that upon receipt of a waiver request, we would publish a **Federal Register** notice to solicit public comments, as required by section 1138(a)(2)(D) of the Act.

According to these requirements, we will review the request and comments received. During the review process, we may consult on an as-needed basis with the Public Health Service's Division of Transplantation, the United Network for Organ Sharing, and our regional offices. If necessary, we may request additional clarifying information from the applying hospital or others. We will then make a final determination on the waiver request and notify the hospital and the designated and requested OPOs.

III. Hospital Waiver Request

[If you choose to comment on issues in this section, please include the caption "Hospital Waiver Request" at the beginning of your comments.]

As permitted by 42 CFR 486.308(e), Methodist Hospital, of Henderson, Kentucky has requested a waiver in order to enter into an agreement with a designated OPO other than the OPO designated for the service area in which the hospital is located.

Methodist Hospital is requesting a waiver to work with: Kentucky Organ Donor Affiliates, 106 East Broadway, Louisville, Kentucky 40202.

Methodist Hospital's Designated OPO is: Indiana Organ Procurement Organization, 429 N. Pennsylvania, Suite 201, Indianapolis, Indiana 46204.

Authority: Section 1138 of the Social Security Act (42 U.S.C. 1320b-8). (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance, and Program No. 93.778, Medical Assistance Program)

Dated: February 15, 2007.

Leslie V. Norwalk,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E7-3044 Filed 2-22-07; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-1553-N]

Medicare Program; Notice of Supplemental Election Period for Provider Participation in the Calendar Year (CY) 2007 Competitive Acquisition Plan for Part B Drugs

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

ACTION: Notice.

SUMMARY: This notice announces an additional physician election period for physicians who are not currently participating in the competitive acquisition program (CAP) for Medicare Part B drugs for calendar year (CY) 2007. The additional physician election period begins on May 1, 2007 and ends on June 15, 2007. Physicians who elect to join the CAP during this additional election period will enter into a physician election agreement effective August 1, 2007 through December 31, 2007.

DATES: The additional CAP physician election period will begin on May 1, 2007 and end on June 15, 2007. Physicians electing to join the CAP during this period will participate in the CAP effective August 1, 2007.

FOR FURTHER INFORMATION CONTACT: Edmund Kasaitis (410) 786-4545.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108-173) (MMA) requires the implementation of a competitive acquisition program (CAP) for certain Medicare Part B drugs not paid on a cost or prospective payment system basis. Physicians who elect to participate in the CAP obtain Medicare covered drugs from vendors selected through a competitive bidding process. Physicians who do not elect to participate in the CAP purchase these drugs and are paid under the average sales price (ASP) system. (For more information on the CAP, see the March 4, 2005 proposed rule (70 FR 10746), July 6, 2005 interim final rule with comment period (70 FR 39022), and November 21, 2005 final rule (70 FR 70116).) In accordance with the CAP statute and regulations, the regular, annual CAP physician election period for CY 2008 will occur in the fall of 2007.

II. Provisions of the Notice

Under the authority described in section 1847B(a)(5)(A)(i) of Social Security Act (the Act) and § 414.908(a)(2) of our regulations, which allows for physician election at times other than the regular, annual election period in such exigent circumstances as defined by CMS, we are designating an additional election period for physicians who wish to join the CAP. We are providing for this additional election period in recognition of the statutory change to the CAP under division B, title I, section 108 of the Tax Relief and Health Care Act of 2006 (Pub. L. 109-432) (TRHCA), effective for drugs supplied under the CAP as of April 1, 2007. We expect to provide program instructions or other guidance in the near future to implement changes to the CAP resulting from the new statutory provisions. Although the statutory change does not directly affect participating CAP physicians, it will require additional implementation efforts by CMS and was enacted after the close of the CAP physician election period for CY 2007. Thus, we believe this is an "exigent circumstance" for which we should allow physicians an additional opportunity to join the CAP.

The additional election period—

- Begins May 1, 2007 and end June 15, 2007; and
- Is only for physicians as defined in section 1861(r) of the Act who are not currently participating in the CY 2007 CAP.

The procedures and forms used for the regular, annual election period for CY 2007 also will be used for this additional CY 2007 election period. The aforementioned forms include the Competitive Acquisition Program (CAP) for Medicare Part B Drugs CAP Physician Election Agreement, which is currently approved under the Office of Management and Budget control number 0938-0987, with an expiration date of April 30, 2009. Physicians who wish to join the CAP during this election period may obtain a Physician Election Agreement form from the download section of the CAP Information for Physicians webpage on the CMS Web site at http://www.cms.hhs.gov/CompetitiveAcquisforBios/02_infophys.asp#TopOfPage.

Physicians who elect to participate in the CAP during the additional CY 2007 election period will have their CAP election agreement effective from August 1, 2007 through December 31, 2007. We note that participation in the CAP for CY 2008 requires renewal of CAP election during the regular fall

election period, which will run from October 1, 2007 to November 15, 2007.

Completed and signed forms must be returned by mail to the physician's local carrier (the carrier that processes the physician's Part B claims). Forms must be postmarked no later than June 15, 2007. Additional details about CAP physician election will be available on the CMS Web site at http://www.cms.hhs.gov/CompetitiveAcquisforBios/02_infophys.asp#TopOfPage.

Authority: Section 1847B(a)(5)(A)(i) of the Social Security Act (42 U.S.C.) (No. 93.774, Medicare—Supplementary Medical Insurance Program).

Dated: February 15, 2007.

Leslie V. Norwalk,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E7-3037 Filed 2-22-07; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-1544-N]

Program; Public Meetings in Calendar Year 2007 for All New Public Requests for Revisions to the Healthcare Common Procedure Coding System (HCPCS) Coding and Payment Determinations

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

ACTION: Notice.

SUMMARY: This notice announces the dates, time, and location of the Healthcare Common Procedure Coding System (HCPCS) public meetings to be held in calendar year 2007 to discuss our preliminary coding and payment determinations for all new public requests for revisions to the HCPCS. These meetings provide a forum for interested parties to make oral presentations or to submit written comments in response to preliminary coding and payment determinations. Discussion will be directed toward responses to our specific preliminary recommendations and will include all items on the public meeting agenda.

DATES: Meeting Dates: The following are the 2007 HCPCS public meeting dates:

1. Tuesday, May 1, 2007, 9 a.m. to 5 p.m., e.s.t. (Supplies and Other)
2. Wednesday, May 2, 2007, 9 a.m. to 5 p.m., e.s.t. (Supplies and Other)
3. Thursday, May 3, 2007, 9 a.m. to 5 p.m., e.s.t. (Durable Medical Equipment (DME) and Accessories).

4. Tuesday, May 15, 2007, 9 a.m. to 5 p.m., e.s.t. (Drugs/Biologicals/Radiopharmaceuticals/Radiologic Imaging Agents)

5. Wednesday, May 16, 2007, 9 a.m. to 5 p.m., e.s.t. (Drugs/Biologicals/Radiopharmaceuticals/Radiologic Imaging Agents)

6. Tuesday, May 22, 2007, 9 a.m. to 5 p.m., e.s.t. (Orthotics and Prosthetics)

7. Wednesday, May 23, 2007, 9 a.m. to 5 p.m., e.s.t. (Orthotics and Prosthetics)

The product category reported by the meeting participant may not be the same as that assigned by CMS. All meeting participants are advised to review the public meeting agenda at <http://www.cms.hhs.gov/medhpcpsgeninfo> which identifies our category determinations, and the dates each item will be discussed. Draft agendas, including a summary of each request and CMS' preliminary decision will be posted on our HCPCS Web site at <http://www.cms.hhs.gov/medhpcpsgeninfo> at least 1 month before each meeting.

Registration Deadlines: Individuals must register for each date they plan either to attend or to provide a presentation. For the May 1, 2, and 3, 2007 public meeting dates, the deadline for registration is April 24, 2007; for the May 15 and 16, 2007 public meeting, the deadline for registration is May 8, 2007; for the May 22 and 23, 2007 public meetings, the deadline for registration is May 15, 2007.

Deadlines for Submission of Supporting Material: The deadline for submitting materials and writings that will be used in support of an oral presentation are: Public meetings held on May 1, 2, and 3, 2007, the deadline is April 17, 2007; public meetings held on May 15 and 16, 2007, the deadline is May 1, 2007; public meeting held on May 22 and 23, 2007, the deadline is May 8, 2007.

ADDRESSES: Meeting Location: The public meetings will be held in the main auditorium of the central building of the Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1850

Registration and Special Accommodations: Individuals wishing to participate or who need special accommodations or both must register by completing the on-line registration located at <http://www.cms.hhs.gov/medhpcpsgeninfo>; or by contacting Felicia Eggleston at (410)786-9287; felicia.eggleston@cms.hhs.gov or Gloria Knight at (410)786-4598; Gloria.Knight@cms.hhs.gov, for the meetings for May 1, May 2, May 3, 2007 meetings.

For the May 15, May 16, May 22, and May 23, 2007 meetings, contact Jennifer Carver at (410)786-6610; Jennifer.Carver@cms.hhs.gov or Trish Brooks at (410)786-4561; Trish.Brooks@cms.hhs.gov.

FOR FURTHER INFORMATION CONTACT: Jennifer Carver, 410-786-6610 or Jennifer.carver@cms.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the Congress passed the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) (Pub. L. 106-554). Section 531(b) of BIPA mandated that we establish procedures that permit public consultation for coding and payment determinations for new durable medical equipment (DME) under Medicare Part B of title XVIII of the Social Security Act (the Act). The procedures and public meetings announced in this notice for new DME are in response to the mandate of section 531(b) of BIPA.

We published a notice in the November 23, 2001 **Federal Register** (66 FR 58743) providing information regarding the establishment of the public meeting process for DME. It is our intent to distribute any materials submitted to CMS to the HCPCS workgroup members for their consideration. CMS and the HCPCS workgroup members require sufficient preparation time to review all relevant materials. For this reason, our HCPCS Public Meeting Coordinators will only accept and review presentation materials received by the deadline for each public meeting, as specified in the **DATES** section. Therefore, we are implementing a 10-page submission limit and firm deadlines for receipt of any materials and presentations the meeting participant wishes CMS to consider.

The public meeting process provides an opportunity for the public to become aware of coding changes under consideration, as well as an opportunity for CMS to gather public input.

II. Meeting Registration

The following information must be provided when registering: Name, company name and address, telephone and fax numbers, e-mail address, and special needs information. A CMS staff member will confirm your registration by mail, e-mail, or fax.

A. Registration Process for Primary Speakers

Individuals must also indicate whether they are the "primary speaker"

for an agenda item. Primary speakers must be designated by the entity that submitted the HCPCS coding request. When registering, primary speakers must provide a brief written statement regarding the nature of the information they intend to provide, and advise the HCPCS Public Meeting Coordinator regarding needs for audio/visual support. To avoid disruption of the meeting and ensure compatibility with our systems, tapes and disk files are tested and arranged in speaker sequence well in advance of the meeting. We will accept tapes and disk files that are received by the "Submission Deadline" for each public meeting, as specified in the **DATES** section of this notice. The sum of all materials including presentation may not exceed 10 pages (each side of a page counts as 1 page). An exception will be made to the 10-page limit for relevant studies published between the application deadline and the public meeting date, in which case, we would like a copy of the complete publication as soon as possible.

These materials may be delivered by regular mail or by e-mail to the respective HCPCS Public Meeting Coordinators as specified in the **ADDRESSES** section. Individuals will need to provide 35 copies if materials are delivered by mail.

B. Registration Process for 5-Minute Speakers

In order to afford the same opportunity to all attendees, there is no pre-registration for 5-minute speakers. Attendees can sign up only on the day of the meeting to do a 5-minute presentation. They must provide their name, company name and address, contact information as specified on the sign-up sheet, and identify the specific agenda item that they will address.

C. Additional Registration Information

Additional details regarding the public meeting process for all new public requests for revisions to the HCPCS, along with information on how to register and guidelines for an effective presentation, will be posted at least 1 month before the first meeting date on the HCPCS Web site: <http://www.cms.hhs.gov/medhpcsgeninfo>. Individuals who intend to provide a presentation at a public meeting need to familiarize themselves with the HCPCS Web site and the valuable information it provides to prospective registrants. The HCPCS Web site, also contains a document titled "The Healthcare Common Procedure Coding System (HCPCS) Level II Coding Procedures," which is a description of the HCPCS coding process, including a detailed

explanation of the procedures used to make coding and payment determinations for all the products, supplies, and services that are coded in the HCPCS. A summary of each public meeting will be posted on the HCPCS Web site by the end of August 2007.

III. Presentations and Comment Format

We can only estimate the amount of meeting time that will be needed since it is difficult to anticipate the total number of speakers for each meeting. Meeting participants should arrive early since each meeting is anticipated to begin promptly at 9 a.m. Speakers need to arrive prepared and wait until it is their turn to speak. Meetings may end earlier than the stated ending time.

A. Oral Presentation Procedures

Individuals who are planning to provide an oral presentation must register as provided under the section titled "Meeting Registration." Materials and writings that will be used in support of an oral presentation should be submitted to the HCPCS Public Meeting Coordinators as specified in the **DATES** section.

These materials may be delivered by regular mail (postmark date no later than deadline date) or by e-mail to the respective HCPCS Public Meeting Coordinators specified in the **ADDRESSES** section. Individuals will need to include 35 copies if materials are delivered by mail.

B. Primary Speaker Presentations

The individual or entity requesting revisions to the HCPCS coding system for a particular agenda item may designate one "primary speaker" to make a presentation for a maximum of 15 minutes. Fifteen minutes is the total time interval for the presentation, and the presentation must incorporate the demonstration, set-up, and distribution of material. In establishing the public meeting agenda, we may group multiple, related requests under the same agenda item. In that case, we will decide whether additional time will be allotted, and may opt to increase the amount of time allotted to the speaker by increments of less than 15 minutes.

We will post "Guidelines for Participation in Public Meetings for All New Public Requests for Revisions to the Healthcare Common Procedure Coding System (HCPCS) Coding and Payment Determinations" on the official HCPCS Web site at least a month before the first public meeting in 2007 for all new public requests for revisions to the HCPCS. Individuals designated to be the primary speaker must register to attend the meeting using the registration

procedures described under the section titled "Meeting Registration" and, at least 15 days before the meeting, contact the appropriate HCPCS Public Meeting Coordinators, specified in the **ADDRESSES** section.

C. "5-Minute" Speaker Presentations

Meeting attendees can sign up at the meeting, on a first-come, first-served basis, to make 5-minute presentations on individual agenda items. Based on the number of items on the agenda and the progress of the meeting, a determination will be made at the meeting by the meeting coordinator and the meeting moderator regarding how many 5-minute speakers can be accommodated.

D. Speaker Declaration

On the day of the meeting, before the end of the meeting, all primary speakers and 5-minute speakers must provide a brief written summary of their comments and conclusions to the HCPCS Public Meeting Coordinator.

The primary speakers and the 5-minute speakers must declare in their presentations at the meeting, as well as in their written summaries, whether they have any financial involvement with the manufacturers or competitors of any items or services being discussed; this includes any payment, salary, remuneration, or benefit provided to that speaker by the manufacturer or the manufacturer's representatives.

E. Written Comments From Meeting Attendees

Written comments can be submitted either the before or at the meeting via e-mail to <http://www.cms.hhs.gov/medhpcsgeninfo> or via regular mail to the HCPCS Public Meeting Coordinator, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop C5-08-27, Baltimore, MD 21244. Due to the close timing of the public meetings, subsequent workgroup reconsiderations, and final decisions, we are able to consider only those comments received in writing by the close of the public meeting at which the request is discussed. Written comments to this address are also accepted from the general public anytime up to the date of the public meeting at which a request is discussed.

IV. Security, Building, and Parking Guidelines

The meetings are held in a Federal government building; therefore, Federal security measures are applicable. In planning your arrival time, we recommend allowing additional time to clear security. In order to gain access to

the building and grounds, participants must bring government-issued photo identification and a copy of your written meeting registration confirmation. Persons without proper identification will be denied access.

Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting. The public may not enter the building earlier than 45 minutes before the convening of the meeting each day.

Security measures will also include inspection of vehicles, inside and outside, at the entrance to the grounds and buildings. In addition, all persons entering the building must pass through a metal detector. All items brought to CMS are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for demonstration or to support a presentation. Special arrangements and approvals are required in order to bring pieces of equipment or medical devices at least two weeks prior to each public meeting. These arrangements need to be made with the appropriate public meeting coordinator. It is possible that certain requests, made in advance, of the public meeting could be denied because of unique safety, security or handling issues related to the equipment. A minimum of two weeks is required for approvals and security procedures. Any request not submitted at least two weeks in advance of the public meeting will be denied.

Parking permits and instructions are issued upon arrival by the guards at the main entrance.

All visitors must be escorted in areas other than the lower and first-floor levels in the Central Building.

Authority: Section 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 42 U.S.C. 1395hh).

Dated: January 29, 2007.

Leslie V. Norwalk,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E7-3034 Filed 2-22-07; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-1383-N2]

Medicare Program; Listening Session on the Draft Plan for Medicare Hospital Value-Based Purchasing—April 12, 2007

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

ACTION: Notice of meeting.

SUMMARY: This notice announces the second Listening Session being conducted as part of the development of a plan for Medicare hospital value-based purchasing, as authorized by section 5001(b) of the Deficit Reduction Act of 2005 (Pub. L. 109-171) (DRA). The purpose of the second Listening Session is to solicit comments on the Draft Plan that has been developed. Hospitals, hospital associations, and all interested parties are invited to attend and make comments in person. The perspectives expressed during this session and in writing will assist us in making revisions to the Draft Plan to create the final Medicare Hospital Value-Based Purchasing Plan to be completed by June 2007. The Draft Plan will be posted no later than March 22, 2007 on the CMS Web site, Hospital Center, under Spotlights at <http://www.cms.hhs.gov/center/hospital.asp>.

DATES:

Meeting Date: The listening session will be held on Thursday, April 12, 2007 from 10 a.m. until 5 p.m. e.d.t.

Registration and Request for Special Accommodations Deadline: Registration will open February 26, 2007. For security reasons, registration must be completed no later than 5 p.m. e.d.t. on Thursday, April 9, 2007. Requests for special accommodations must be received by 5 p.m. e.d.t. on Thursday, April 9, 2007. See Section III. below for detailed instructions.

Deadline for Submission of Written Comments or Statements: Written comments on the Draft Plan may be sent by mail, fax, or electronically and must be received by 5 p.m. e.d.t. on April 19, 2007.

ADDRESSES:

Meeting Location: The Listening Session will be held in the main auditorium of the central building of the Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1850.

Registration and Special Accommodations: Persons interested in

attending the meeting or listening by teleconference must register by completing the on-line registration located at <http://registration.mshow.com/cms2/>. Individuals who need special accommodations should contact Robin Phillips at (410) 786-3010, by e-mail to robin.phillips@cms.hhs.gov, or by regular mail to Mail Stop C4-13-07 Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1850.

Written Comments or Statements: Written comments on the Draft Plan may be mailed to Mail Stop C4-13-07 Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244; e-mail to cmshospitalVBP@cms.hhs.gov or fax to 410-786-0330.

FOR FURTHER INFORMATION CONTACT: Robin Phillips, 410-786-3010 in the Medicare Feedback Group. You may also send inquires about this meeting via e-mail to robin.phillips@cms.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 5001(b) of the Deficit Reduction Act of 2005 (Pub. L. 109-171) (DRA) specifies that we develop a plan to implement a Value-Based Purchasing (VBP) Program for payments under the Medicare program for subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) beginning with FY 2009. The Congress specified that the "plan" include consideration of the following issues:

- The ongoing development, selection, and modification process for measures of quality and efficiency in hospital inpatient settings.
- The reporting, collection, and validation of quality data.
- The structure of value-based payment adjustments, including the determination of thresholds or improvements in quality that would substantiate a payment adjustment, the size of such payments, and the sources of funding for the value-based payments.
- The disclosure of information on hospital performance.

In developing the plan, we must consult with relevant affected parties and consider experience with demonstrations that are relevant to the VBP program. We have created an internal Hospital Pay-for-Performance Workgroup that is charged with developing the VBP Plan for Medicare hospital services. This Workgroup is organized into four subgroups to address each of the required planning

issues: (1) Measures; (2) data collection and validation; (3) incentive structure; and (4) public reporting. It is also charged with preparing a set of design options, narrowing the set of design options to prepare a draft plan, and preparing a report on the plan for implementing VBP for Medicare hospital services, which will be provided to the Congress as required under section 5001(b)(3) of the DRA.

In the November 24, 2006 **Federal Register**, we announced that we would have a listening session to consider design questions posed in the Issues Paper that we posted on our Web site <http://www.cms.hhs.gov>. This listening session was held on January 17, 2007.

II. Listening Session Format and Agenda

The second listening session will be held on April 12, 2007 to consider the Draft Plan. This listening session will begin at 10 a.m. with an overview of the objectives for the session and a brief summary of the approach to developing the Draft Plan. Beginning at approximately 10:30 a.m., the remainder of the meeting will be devoted to addressing each section of the Plan. The agenda will provide opportunities for brief 2-minute comments from on-site session attendees. As time allows, telephone participants will also have the opportunity to provide brief 2-minute comments. A lunch break will occur from approximately 12:30 p.m. to 1:30 p.m. The meeting will conclude by 5 p.m. with brief comments on "next steps."

III. Registration Instructions

Persons interested in attending the meeting or listening by teleconference must register by completing the on-line registration located at <http://registration.mshow.com/cms2/>. The on-line registration system will generate a confirmation page to indicate the completion of your registration. Please print this page as your registration receipt.

Individuals may also participate in the listening session by teleconference. Registration is required. The call-in number will be provided upon confirmation of registration.

An audio download of the listening session will be available through the CMS Hospital Center Web site within 72 hours after completion of the listening session.

IV. Security, Building, and Parking Guidelines

Because this meeting will be located on Federal property, for security reasons, any persons wishing to attend

this meeting must register by close of business on April 9, 2007. Individuals who have not registered in advance will not be allowed to enter the building to attend the meeting. Seating capacity is limited to the first 550 registrants.

The on-site check-in for visitors will begin at 9:15 a.m. Please allow sufficient time to go through the security checkpoints at both the entrance to the grounds and the entrance to the building. It is suggested that you arrive at central building by 9 a.m. so that you will have enough time to check-in before the session begins.

Security measures will include inspection of vehicles, inside and out, at the entrance to the grounds. In addition, all persons entering the building must check in by name with Security, provide a government-issued ID, and pass through a metal detector. All items brought to the building, whether personal or for the purpose of demonstration or to support a presentation, including items such as laptops, cell phones, and palm pilots, are subject to physical inspection.

Authority: Section 5001(b) The Deficit Reduction Act (DRA) of 2005.

Dated: February 15, 2007.

Leslie V. Norwalk,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E7-3048 Filed 2-22-07; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006E-0261]

Determination of Regulatory Review Period for Purposes of Patent Extension; EXJADE

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for EXJADE and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions 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>.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the human drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product EXJADE (deferasirox). EXJADE is indicated for the treatment of chronic iron overload due to blood transfusions (transfusional hemosiderosis) in patients 2 years of age and older. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for EXJADE (U.S. Patent No. 6,465,504) from Novartis AG, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated July 24, 2006, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of

EXJADE represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for EXJADE is 2,288 days. Of this time, 2,103 days occurred during the testing phase of the regulatory review period, while 185 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective:* July 31, 1999. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on July 31, 1999.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act:* May 2, 2005. FDA has verified the applicant's claim that the new drug application (NDA) for EXJADE (NDA 21-882) was initially submitted on May 2, 2005.

3. *The date the application was approved:* November 2, 2005. FDA has verified the applicant's claim that NDA 21-882 was approved on November 2, 2005.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 648 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by April 24, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by August 22, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in

brackets in the heading of this document.

Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 3, 2007.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E7-3041 Filed 2-22-07; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006E-0356]

Determination of Regulatory Review Period for Purposes of Patent Extension; BARACLUDGE

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for BARACLUDGE and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions 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>.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the

amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the human drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product BARACLUDGE (entecavir). BARACLUDGE is indicated for the treatment of chronic hepatitis B virus infection in adults with evidence of active viral replication and either evidence of persistent elevations in serum aminotransferases or histologically active disease. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for BARACLUDGE (U.S. Patent No. 5,206,244) from Bristol-Myers Squibb Co., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 5, 2006, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of BARACLUDGE represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for BARACLUDGE is 2,993 days. Of this time, 2,811 days occurred during the testing phase of the regulatory review period, while 182 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetics Act (the act) (21 U.S.C. 355(i)) became effective:* January 19, 1997. FDA has verified the applicant's

claim that the date the investigational new drug application became effective was on January 19, 1997.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act:* September 29, 2004. FDA has verified the applicant's claim that the new drug application (NDA) for BARACLUDE (NDA 21-797) was initially submitted on September 29, 2004.

3. *The date the application was approved:* March 29, 2005. FDA has verified the applicant's claim that NDA 21-797 was approved on March 29, 2005.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,587 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by April 24, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by August 22, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document.

Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 25, 2007.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E7-3042 Filed 2-22-07; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 2004E-0300, 2004E-0301, 2004E-0302, 2004E-0303, 2004E-0304, 2004E-0306, 2004E-0426, and 2006E-0206]

Determination of Regulatory Review Period for Purposes of Patent Extension; S8 OVER-THE-WIRE SYSTEM

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for S8 OVER-THE-WIRE SYSTEM and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Submit written comments and petitions 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>.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is

granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA approved for marketing the medical device, S8 OVER-THE-WIRE SYSTEM. S8 OVER-THE-WIRE SYSTEM is indicated for improving coronary luminal diameter in patients with symptomatic ischemic heart disease due to discrete de novo or restenotic lesions with reference vessel diameters of 3.0-4.0 mm and = 30 mm in length using direct stenting or predilatation. Subsequent to this approval, the Patent and Trademark Office received patent term restoration applications for S8 OVER-THE-WIRE SYSTEM (U.S. Patent Nos. 5,292,331; 5,800,509; 5,836,965; 5,879,382; 5,891,190; 6,159,229; 6,309,402; and 6,344,053) from Medtronic Vascular, and the Patent and Trademark Office requested FDA's assistance in determining the patents' eligibilities for patent term restoration. In letters dated February 24, 2006, and June 14, 2006, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of S8 OVER-THE-WIRE SYSTEM represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for S8 OVER-THE-WIRE SYSTEM is 652 days. Of this time, 477 days occurred during the testing phase of the regulatory review period, while 175 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) involving this device became effective:* December 20, 2001. FDA has verified the applicant's claim that the date the investigational device exemption (IDE) required under section 520(g) of the act for human tests to begin became effective December 20, 2001.

2. *The date the application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e):* April 10, 2003. The

applicant claims April 9, 2003, as the date the premarket approval application (PMA) for S8 OVER-THE-WIRE SYSTEM (PMA P030009) was initially submitted. However, FDA records indicate that PMA P030009 was submitted on April 10, 2003.

3. *The date the application was approved:* October 1, 2003. FDA has verified the applicant's claim that PMA P030009 was approved on October 1, 2003.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its applications for patent extension, this applicant seeks 413 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by April 24, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by August 22, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 25, 2007.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E7-3127 Filed 2-22-07; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006E-0355]

Determination of Regulatory Review Period for Purposes of Patent Extension; AMITIZA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for AMITIZA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions 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>.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy (HFD-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-2041.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the human drug product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period

may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product AMITIZA (lubiprostone). AMITIZA is indicated for the treatment of chronic idiopathic constipation in the adult population. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for AMITIZA (U.S. Patent No. 5,284,858) from Sucampo AG, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 5, 2006, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of AMITIZA represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for AMITIZA is 2,197 days. Of this time, 1,890 days occurred during the testing phase of the regulatory review period, while 307 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective:* January 28, 2000. The applicant claims January 29, 2000, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was January 28, 2000, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act:* March 31, 2005. FDA has verified the applicant's claim that the new drug application (NDA) for AMITIZA (NDA 21-908) was initially submitted on March 31, 2005.

3. *The date the application was approved:* January 31, 2006. FDA has verified the applicant's claim that NDA 21-908 was approved on January 31, 2006.

This determination of the regulatory review period establishes the maximum

potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,251 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by April 24, 2007. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by August 22, 2007. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 3, 2007.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E7–3128 Filed 2–22–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004P–0262]

Withdrawal of Approval of 128 Suitability Petitions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 128 suitability petitions. This action is being taken in accordance with the Pediatric Research Equity Act of 2003 (PREA). Prior to PREA's enactment, FDA had approved these suitability petitions to permit abbreviated new drug applications (ANDAs) to be submitted for drugs that had a different active ingredient, dosage form, or route of administration than their reference listed drugs (RLDs). However, these approval decisions are being withdrawn because ANDAs were never submitted and PREA requires that all applications submitted on or after April 1, 1999, for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration contain an assessment of the safety and effectiveness of the drug for the claimed indications in relevant pediatric subpopulations unless the requirement is waived or deferred. This action is being taken without prejudice. Any of the suitability petitions may be resubmitted for action by the agency in accordance with current law.

DATES: This notice is effective March 26, 2007.

FOR FURTHER INFORMATION CONTACT: Cecelia M. Parise, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5845.

SUPPLEMENTARY INFORMATION: PREA (Public Law 108–155) was enacted on December 3, 2003. Among other things, section 2 of PREA requires that all drug applications submitted on or after April 1, 1999, for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration contain an assessment of the safety and effectiveness of the drug for the claimed indications in relevant pediatric subpopulations unless the requirement is waived or deferred. As a result, FDA is withdrawing its approval for 128 suitability petitions for which ANDAs were never submitted. The approval decisions, made prior to the enactment of PREA, would have permitted ANDAs to be submitted for certain drugs that have a different active ingredient, dosage form, or route of administration than their RLDs. No ANDAs were submitted for these drugs pursuant to these suitability petitions prior to April 1, 1999, and any such application submitted on or after April 1, 1999, would be required to contain the safety and effectiveness assessments required by PREA, unless waived or deferred. According to § 314.93(e)(1)(i) (21 CFR 314.93(e)(1)(i)), a suitability petition may not be approved if investigations must be conducted to show the safety and effectiveness of the drug product. In addition, according to § 314.93(f), FDA may withdraw approval of a suitability petition if it receives information demonstrating that the petition no longer satisfies the conditions of § 314.93(e). Under PREA, safety and effectiveness investigations in pediatric subpopulations would be required for the drug products proposed by these suitability petitions, unless the requirement is waived or deferred. Therefore, these suitability petitions no longer satisfy the regulatory requirements for approval. Pursuant to § 314.93(f), FDA is withdrawing approval of the 128 suitability petitions listed in the following table:

Petition No.	Drug	Petitioner
82N–0032/CP6	Chlorzoxazone 500 milligrams (mg)	Mikart, Inc.
84N–0116/CP1	Disopyramide Phosphate 200 mg or 300 mg	Biocraft Laboratories, Inc.
84P–0228/CP1	Acetaminophen 500 mg, Codeine Phosphate 30 mg or 60 mg	McNeil Pharmaceutical
85P–0067/CP1	Methyltestosterone 25 mg	Star Pharmaceuticals
85P–0074/CP1	Hydralazine Hydrochloride 25 mg/5 milliliters (mL)	Roxane Laboratories, Inc.
85P–0081/CP1	Flurazepam Hydrochloride 30 mg/mL	Do.
85P–0084/CP1	Vincristine Sulfate 2 mg	Bristol Laboratories

Petition No.	Drug	Petitioner
85P-0091/CP1	Flurazepam Hydrochloride 15 mg/5 mL	Roxane Laboratories, Inc.
85P-0095/CP1	Brompheniramine Maleate 12 mg, Pseudoephedrine Hydrochloride 120 mg	UAD Laboratories, Inc.
85P-0129/CP1	Propranolol Hydrochloride 160 mg	Verex Laboratories, Inc.
85P-0140/CP1	Dexbrompheniramine Maleate 6 mg, Pseudoephedrine Hydrochloride 120 mg	Central Pharmaceuticals, Inc.
85P-0140/CP2	Dexbrompheniramine Maleate 6 mg, Pseudoephedrine Sulfate 120 mg	Do.
85P-0147/CP1	Ketoconazole 20 mg/mL	Janssen Pharmaceutica
85P-0197/CP1	Propranolol Hydrochloride 80 mg, 120 mg, 160 mg	Forest Laboratories
85P-0215/CP1	Disulfiram 500 mg/30 mL	Paddock Laboratories
85P-0238/CP2	Dexbrompheniramine Maleate 6 mg, Phenylpropanolamine Hydrochloride 75 mg	Bock Pharmacal Co.
85P-0269/CP1	Codeine Phosphate 10 mg/5 mL, Dexbrompheniramine Maleate 1 mg/5 mL, Phenylpropanolamine Hydrochloride 12.5 mg/5 mL	Do.
85P-0423/CP1	Benztrapine Mesylate 0.5 mg/5 mL	RIM Consulting Corp.
85P-0492/CP1	Azatadine Maleate 1 mg, Phenylpropanolamine Hydrochloride 75 mg	Smith, Kline & French Laboratories
85P-0499/CP1	Diazepam 2 mg/5 mL	Carolina Medical Products Co.
85P-0510/CP1	Spirolactone 25 mg/5 mL	Do.
85P-0515/CP1	Lorazepam 0.5 mg, 1 mg, or 2 mg	Wyeth Laboratories, Inc.
85P-0516/CP1	Oxazepam 15 mg or 30 mg	Do.
85P-0543/CP1	Acetaminophen 300 mg, Codeine Phosphate 30 mg	Softan, Inc.
85P-0543/CP2	Acetaminophen 500 mg, Codeine Phosphate 7.5 or 15 mg	Do.
85P-0543/CP3	Acetaminophen 500 mg, Oxycodone Hydrochloride 5 mg	Do.
85P-0563/CP1	Ibuprofen 300, 400, or 600 mg	Do.
85P-0581/CP1	Acetaminophen 500 mg, Propoxyphene Hydrochloride 32 mg	Do.
86P-0045/CP1	Propranolol Hydrochloride 10, 20, 40, 60, 80, 90 mg	Nutripharm, Inc.
86P-0055/CP1	Spirolactone 25 mg/5 mL	Carolina Medical Products Co.
86P-0123/CP1	Cholestyramine 4 grams (g)	Parke-Davis, Division of Warner-Lambert Co.
86P-0200/CP1	Acetaminophen 650 mg, Codeine Phosphate 15 mg	Mikart, Inc.
86P-0242/CP1	Floxuridine 500 mg/5 mL	Quad Pharmaceuticals, Inc.
86P-0292/CP1	Lorazepam 1 mg/5 mL	Roxane Laboratories, Inc.
86P-0359/CP1	Aspirin 356.4 mg, Caffeine 30 mg, Dihydrocodeine Bitartrate 16 mg	Central Pharmaceuticals, Inc.
86P-0361/CP1	Acetaminophen 325 mg, Aspirin 325 mg, Codeine Phosphate 30 mg	Bock Pharmacal Co.

Petition No.	Drug	Petitioner
86P-0427/CP1	Hydrochlorothiazide 50 mg, Triamterene 75 mg	Par Pharmaceutical, Inc.
86P-0474/CP1	Cholestyramine 500 mg	Bristol-Myers Squibb
87P-0004/CP1	Fluocinonide 0.05%	Richard Hamer Assoc.
87P-0037/CP1	Lorazepam 0.5 mg, 1 mg, 2 mg	Applied Laboratories, Inc.
87P-0101/CP1	Verapamil Hydrochloride 40 mg/5 mL or 80 mg/5 mL	MY-K Laboratories, Inc.
87P-0233/CP1	Verapamil Hydrochloride 120 mg or 240 mg	Searle Research & Development
87P-0242/CP1	Ibuprofen 800 mg	Sidmak Laboratories, Inc.
87P-0265/CP1	Dexbrompheniramine Maleate 6 mg, Phenylpropanolamine Hydrochloride 75 mg	Bock Pharmacal Co. (King & Spalding)
87P-0268/CP1	Loperamide Hydrochloride 2 mg	Kross, Inc.
87P-0301/CP1	Cholestyramine Resin 4 g	Ciba-Geigy Corp.
87P-0314/CP1	Clemastine Fumarate 1.34 mg, Pseudoephedrine Hydrochloride 120 mg	Sandoz Consumer Healthcare Group
87P-0323/CP1	Acetaminophen 160 mg/5 mL, Codeine Phosphate 6 mg/5 mL	Kleinfeld, Kaplan & Becker
87P-0335/CP1	Triamterene 50 mg, Hydrochlorothiazide 25 mg	Par Pharmaceutical, Inc.
87P-0340/CP1	Nifedipine 10 mg or 20 mg	Do.
87P-0367/CP1	Phenytoin Sodium 100 mg, 250 mg/vial	Lyphomed, Inc.
87P-0399/CP1	Propranolol Hydrochloride 40 mg or 80 mg/5 mL, Hydrochlorothiazide 25 mg/5 mL	Burditt, Bowles, Radzius & Rudberry
88P-0011/CP1	Cyclophosphamide 20 mg/mL, 500 mL pharmacy bulk pack (PBP)	Baxter Healthcare Corp.
88P-0036/CP1	Chlorhexidine Gluconate 0.5%	Arent, Fox, Kinter, Plotkin & Kahn
88P-0061/CP1	Homatropine Methylbromide 1.5 mg, Hydrocodone Bitartrate 5 mg	Kleinfeld, Kaplan & Becker
88P-0149/CP1	Leucovorin Calcium 1 mg/mL	Roxane Laboratories, Inc.
88P-0277/CP1	Quinidine Sulfate 300 mg	A. H. Robins
88P-0350/CP1	Clemastine Fumarate 1.34 mg, Phenylpropanolamine Hydrochloride 75 mg	Scientific Consulting of VA, Inc.
88P-0379/CP1	Cyclophosphamide 20 mg/mL, 250 mL PBP	Baxter Healthcare Corp.
88P-0391/CP1	Prednisone 1 mg, 2.5 mg, 5 mg, 10 mg, 20 mg, 25 mg, or 50 mg	B.F. Ascher & Co., Inc.
89P-0028/CP1	Hydrocortisone Valerate 0.2%	McKenna, Conner & Cuneo
89P-0029/CP1	Hydrocortisone Valerate 0.2%	Do.
89P-0071/CP1	Morphine Sulfate 30 mg	Ethypharm/Oxford Research Intl. Corp.
89P-0399/CP1	Carbamazepine 200 mg/5 mL	Guidelines, Inc.
89P-0435/CP1	Pentamidine Isethionate 100 mg/mL	Astra Pharmaceutical Products, Inc.
90P-0049/CP1	Hydrocortisone Acetate 2.5% or 1%	Ferndale Laboratories, Inc.
90P-0084/CP1	Chlorzoxazone 250 mg	Mikart, Inc.
90P-0154/CP1	Hydrocortisone Acetate 1%	Ferndale Laboratories, Inc.
90P-0198/CP1	Clobetasol Propionate 0.05%, RLD = Temovate	Kross, Inc.

Petition No.	Drug	Petitioner
90P-0436/CP1	Nifedipine 30 mg, 60 mg, 90 mg	KV Pharmaceutical Co.
91P-0348/CP1	Albuterol Sulfate 4 mg	Richard Hamer Associates, Inc.
92P-0048/CP2	Triazolam 0.125 mg/5 mL	Roxane Laboratories, Inc.
92P-0101/CP1	Hydrocortisone Acetate 2.5%	Hogan & Hartson
92P-0282/CP1	Acetaminophen 150 mg, Aspirin 180 mg, Hydrocodone Bitartrate 5 mg	Mikart, Inc.
92P-0282/CP2	Acetaminophen 150 mg, Aspirin 180 mg, Hydrocodone Bitartrate 7.5 mg	Do.
92P-0282/CP3	Acetaminophen 150 mg, Aspirin 180 mg, Hydrocodone Bitartrate 2.5 mg	Do.
92P-0282/CP4	Acetaminophen 150 mg, Aspirin 180 mg, Hydrocodone Bitartrate 10 mg	Do.
92P-0332/CP1	Propranolol Hydrochloride 40 mg	Flemington Pharmaceutical Corp.
92P-0335/CP1	Albuterol Sulfate 2 mg, 4 mg	WE Pharmaceuticals, Inc.
92P-0336/CP1	Prednisone 5 mg or 10 mg	Do.
92P-0381/CP1	Cytarabine 20 mg/mL, 12.5 mL	Bristol-Myers Squibb Co.
92P-0500/CP1	Timethoprim 25 mg/5 mL	Ascent Pharmaceuticals, Inc.
93P-0048/CP1	Cimetidine 200, 300, 400 or 800 mg	Flemington Pharmaceuticals Corp.
93P-0049/CP1	Propranolol Hydrochloride 10, 20, 60, 80, 90 mg	Do.
93P-0314/CP1	Acetaminophen 500 mg, Codeine Phosphate 45 mg	Mikart, Inc.
93P-0332/CP1	Loperamide Hydrochloride 1 mg	Asta Medica GmbH
93P-0333/CP1	Prednisone 1, 2.5, 20, 50 mg	Dura Pharmaceuticals
93P-0346/CP1	Acetaminophen 325 mg, Butalbital 50 mg, Caffeine 40 mg, Hydrocodone Bitartrate 5 mg	Mikart, Inc.
93P-0367/CP1	Terfenadine 60 mg, Pseudoephedrine 120 mg	Eurand America
93P-0446/CP1	Morphine Sulfate 15 mg, 60 mg, 90 mg, 100 mg	Ethypharm
93P-0459/CP1	Methyltestosterone 25 mg	ICN Pharmaceuticals, Inc.
94P-0182/CP1	Acetaminophen 120 mg, Codeine Phosphate 12 mg	WE Pharmaceuticals, Inc.
94P-0186/CP1	Sulfamethoxazole 200 mg, Trimethoprim 40 mg	Dura Pharmaceuticals
94P-0199/CP1	Lorazepam 1 mg/10 mL	Roxane Laboratories, Inc.
94P-0210/CP1	Acetaminophen 150 mg, Aspirin 180 mg, Codeine Phosphate 60 mg	Mikart, Inc.
94P-0211/CP1	Acetaminophen 150 mg, Aspirin 180 mg, Codeine Phosphate 30 mg	Do.

Petition No.	Drug	Petitioner
94P-0212/CP1	Acetaminophen 150 mg, Aspirin 180 mg, Codeine Phosphate 15 mg	Do.
94P-0263/CP1	Fluorouracil 5%	Bradley Pharmaceuticals, Inc.
94P-0432/CP1	Methylprednisolone 16 mg, 24 mg, 32 mg	Dura Pharmaceuticals
94P-0433/CP1	Leucovorin Calcium 10 mg/mL 350 mg vial	Lederle Laboratories
94P-0433/CP2	Leucovorin Calcium 10 mg/mL 5 mL vial	Do.
95P-0008/CP1	Captopril 25 mg/mL	Roxane Laboratories, Inc.
95P-0100/CP1	Carbidopa/Levodopa 25/100 mg, 25/250 mg	Athena Neurosciences, Inc.
95P-0223/CP1	Hydrocortisone Butyrate 0.1%	McKenna & Cuneo, L.L.P.
95P-0268/CP1	Acyclovir Sodium 5 mg/mL	Wilmer, Cutler, Pickering
95P-0277/CP1	Cholestyramine 2 g	Mayrand Pharmaceuticals, Inc.
95P-0279/CP1	Butalbital 50 mg, Acetaminophen 325 mg, Caffeine 40 mg, Hydrocodone Bitartrate 10 mg	Mikart, Inc.
95P-0279/CP2	Butalbital 50 mg, Acetaminophen 325 mg, Caffeine 40 mg, Hydrocodone Bitartrate 7.5 mg	Do.
95P-0279/CP3	Butalbital 50 mg, Acetaminophen 500 mg, Caffeine 40 mg, Hydrocodone Bitartrate 10 mg	Do.
95P-0279/CP4	Butalbital 50 mg, Acetaminophen 500 mg, Caffeine 40 mg, Hydrocodone Bitartrate 7.5 mg	Do.
95P-0326/CP1	Nifedipine 30 mg, 60 mg, 90 mg	KV Pharmaceutical Co.
95P-0328/CP1	Metronidazole 0.75%	RNB Pharmaceutical Co.
96P-0018/CP1	Potassium Chloride 20 milliequivalents (meq)	KV Pharmaceutical Co.
96P-0021/CP1	Aspirin 650 mg Butalbital 50 mg	Savage Laboratories, Division of Altana, Inc.
96P-0054/CP1	Potassium Chloride 10 meq	KV Pharmaceutical Co.
96P-0079/CP1	Pentoxifylline 400 mg	Do.
96P-0307/CP1	Acyclovir 5%	Pitney, Hardin, Kipp & Szuch
96P-0376/CP1	Hydrocortisone Acetate 90 mg	Do.
96P-0510/CP1	Diltiazem Hydrochloride 120 mg, 180 mg, 240 mg, RLD = Cardiazem CD	Labopharm, Inc.
97P-0155/CP1	Mefenamic Acid 250 mg	Pitney, Hardin, Kipp & Szuch
97P-0192/CP1	Diltiazem Hydrochloride 120 mg, 180 mg, 240 mg, RLD = Dilacor XR	Labopharm, Inc.
97P-0195/CP1	Diltiazem Hydrochloride 120 mg, 180 mg, 240 mg, RLD = Tiazac	Do.
97P-0387/CP1	Albuterol Sulfate 2 mg and 4 mg	Richard Hamer Assoc., Inc.
97P-0404/CP1	Famotidine 10 mg	Thomas Blake, R.Ph.

Petition No.	Drug	Petitioner
98P-0068/CP1	Clobetasol Propionate 0.05%, RLD = Temovate E	Richard Hamer Associates, Inc.
98P-0146/CP1	Ifosfamide 50 mg/mL, 20 mL, and 60 mL	Mitchall G. Clark
98P-0199/CP1	Captopril 25 mg/5 mL	Miran Consulting, Inc.
98P-0745/CP1	Econazole Nitrate 1%	Do.

This action is being taken without prejudice. Any of these petitions may be resubmitted for action by the agency in accordance with current law.

Dated: February 13, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7-3043 Filed 2-22-07; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276-1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Protection and Advocacy for Individuals with Mental Illness (PAIMI) Annual Program Performance Report (OMB No. 0930-0169)—Revision

The Protection and Advocacy for Individuals with Mental Illness (PAIMI)

Act, [42 U.S.C. 10801 *et seq.*] authorized funds to support protection and advocacy services on behalf of individuals with severe mental illness and severe emotional impairment who are at risk for abuse (including incidents of seclusion, restraint, and serious injuries or fatalities related to such incidents, neglect, residing in a public or private care or treatment facility). The PAIMI Program is managed by the Center for Mental Health Services (CMHS) within the Substance Abuse and Mental Health Services Administration (SAMHSA).

Under the PAIMI Act, formula grant awards are made to governor-designated protection and advocacy (P&A) systems in each of the 50 states, the District of Columbia (Mayor), the American Indian Consortium [the Dine (Navajo) and Hopi Peoples in Northern Arizona and New Mexico], and five (5) territories—American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. The awards are used to provide legal-based advocacy services which ensure protection against violation of the constitutional and federal rights of individuals with significant (severe) mental illness (adults) and significant (severe) emotional impairment.

In 2000, the PAIMI Act amendments, created a 57th P&A system—the American Indian Consortium and authorized P&A systems to serve PAIMI-eligible individuals, as defined under the Act [42 U.S.C. at 10802 (4)], who reside in the community including their own homes. However, P&A services to PAIMI-eligible clients residing in the community is permissible only when the annual PAIMI appropriation met or exceeded \$30 million, and that residents in public and private residential care or treatment facilities had service priority over community residents. The Children's Health Act of 2000 (42 U.S.C. 290aa *et seq.*), also referenced State P&A authority to obtain information on incidents of seclusion, restraint, and related deaths in certain facilities.

The PAIMI Act requires each of the 57 P & A systems to file an annual report, no later than January 1st, of its activities and accomplishments and to provide

information on such topics as, the numbers of individuals served, types of complaints addressed, and the number of intervention strategies used to resolve the presenting issues. Under the Act, the PAIMI Advisory Council (PAC) of each P&A system is also required to submit its independent assessment of the effectiveness of the services provided to, and the activities conducted by, the P&A systems on behalf of PAIMI-eligible individuals and their family members, in a separate section of the PPR.

The Developmental Disabilities Assistance and Bill of Rights Act of 1975, referred to as the DD Act [42 U.S.C. 6042 *et seq.*], created the State P&A systems. The Administration on Developmental Disabilities, within the Administration for Children and Families, has administrative oversight of the Protection and Advocacy for Developmental Disabilities (PADD) Program. Since 1986, the Department has provided formula grant funds to the same governor-designated P&A systems to protect and advocate for individuals with significant mental illness. SAMHSA is currently waiting for the ADD to issue a Notice of Proposed Rulemaking (NPR) for the DD Act of 2000 amendments. These amendments will also govern activities fulfilled by the State P&A systems under the PAIMI Act. Therefore, to ensure to the greatest extent possible that all facets of the P&A system administered by the Department are subject to the same requirements, SAMHSA will wait until the DD Act NPR is published before revising the PAIMI Rules. [The Final PAIMI Rules were issued in 1997 and were extended in 2000 and 2004. An FRN was published May 2006 to extend the current PAIMI Rules, which will expire in 2007, until 2010].

The Substance Abuse Mental Health Services Administration (SAMHSA) is revising the PAIMI Annual Program Performance Report for the following reasons: (1) To make it consistent with the requirements of the annual reporting requirements under the PAIMI Act and the PAIMI Rules (42 CFR Part 51), as 2), and the CHA of 2000 Parts H and I; (2) to conform with the Office of Management and Budget's (OMB)

findings and recommendations from the FY 2005 PART of the PAIMI Program; (3) to broaden the category of deaths investigated by the State P&A systems; (4) to reduce the reporting burdens for the State P&A systems and the PAIMI Advisory Council (PAC) in certain areas; and, (5) to enhance the PAC section by providing better information on its role, responsibility, and authority on P&A system PAIMI activities and services.

Planned revisions to the PAIMI Annual Program Performance Report (PPR) and the PAC include the following items:

- (1) Changing the fonts to improve readability;
- (2) Adding Tables of Contents and Glossaries to the PPR and ACR sections;
- (3) Reducing the reporting burden in Section 2. PAIMI Program Priorities and Objectives by requesting only one case example per priority (goal) rather than per objective;
- (4) Revising Sections: 2. PAIMI Program Priorities (Goals) and Objectives; 4. Case Complaints/Problems of Individuals; and, 5. Intervention Strategies on Behalf of

Groups of PAIMI-eligible Individuals, for consistency with the findings and recommendations from the Office of Management and Budget (OMB), 2005 PART evaluation/assessment of the PAIMI Program and to clarify and/or enhance the instructional guidance for determining activity/intervention outcomes and estimating the number of individuals or groups impacted by P&A system activities/interventions in sections 4 and 5;

(5) Expanding Section 4. E. 2. by adding an item c. for the number of death investigation activities not related in incidents of seclusion and restraint;

(6) Providing the applicable PAIMI citations to the guidance in Section 8. Other Services & Activities.

(7) Modifying the Advisory Council Report (ACR), Sections B. PAIMI Advisory Council (PAC) Membership and C. PAC Ethnicity/Racial Diversity for consistency with the format used in the PAIMI Application for FY 2007–2009;

(8) Enhancing Section F. PAC Activities to include the applicable citations that will provide each PAC

with better information on its authority, role, and responsibilities as the P&A governing authority.

(9) Revising Section G. PAIMI Assessment of PAIMI Program Operations, by eliminating the previous requirement that the PAC comment on each P&A system annual and objective. The PAC will only submit a summary of its assessment of the P&A system's annual PAIMI Program priorities, objectives, activities and program operations;

(10) Adding an additional item to Section G. to identify the training and technical assistance needs of each PAC; and,

(11) Adding the applicable citations to Section H. Grievance Procedures to include the applicable citations that will provide the PAC with better information on its authority, role, and responsibilities.

The revised report formats will be effective for the report due on January 1, 2008.

The annual burden estimate is as follows:

	Number of respondents	Number of responses per respondent	Hours per response	Total hour burden
Annual Program Performance Report	57	1	26	1,482
Activities & Accomplishments			(20)	(1,140)
Performance outcomes			(3)	(171)
Expenses			(1)	(57)
Budget			(1)	(57)
Priority statements & objectives			(1)	(57)
Advisory Council Report	57	1	10	570
Total	114			2,052

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1045, 1 Choke Cherry Road, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: February 11, 2007.

Elaine Parry,

Acting Director, Office of Program Services, SAMHSA.

[FR Doc. E7–3107 Filed 2–22–07; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of a Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Substance Abuse and Mental Health

Services Administration (SAMHSA) National Advisory Council on March 7–8, 2007.

The meeting is open to the public and will include a report from the newly appointed SAMHSA Administrator, Dr. Terry L. Cline; a presentation on the National Registry of Evidence-Based Programs and Practices; an update on recent epidemiological data on methamphetamine use; and a presentation on SAMHSA's Workforce Development activities.

Attendance by the public will be limited to the space available. Public comments are welcome. Please communicate with the Council's Executive Secretary, Ms. Toian Vaughn (see contact information below), to make arrangements to comment or to request special accommodations for persons with disabilities.

Substantive program information, a summary of the meeting, and a roster of Council members may be obtained

either by accessing the SAMHSA Committee's Web site at <https://www.nac.samhsa.gov/nac.aspx> as soon as possible after the meeting, or by contacting Ms. Vaughn. The transcript for the meeting will also be available on the SAMHSA Committee's Web site within three weeks after the meeting.

Committee Name: SAMHSA National Advisory Council.

Date/Time/Type: Wednesday, March 7, 2007, from 9 a.m. to 5 p.m.: Open. Thursday, March 8, 2007, from 9 a.m. to 12 p.m.: Open.

Place: 1 Choke Cherry Road, Sugarloaf and Seneca Conference Rooms, Rockville, Maryland 20857.

Contact: Toian Vaughn, Executive Secretary, SAMHSA National Advisory Council and SAMHSA Committee Management Officer, 1 Choke Cherry Road, Room 8–1089, Rockville, Maryland 20857, Telephone: (240) 276–2307; FAX: (240) 276–2220 and E-mail: toian.vaughn@samhsa.hhs.gov.

Dated: February 16, 2007.

Toian Vaughn,

Executive Secretary, SAMHSA National Advisory Council and SAMHSA Committee Management Officer.

[FR Doc. E7-3105 Filed 2-22-07; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HOMELAND SECURITY

[OMB Control Number: 1651-0101]

Preparedness Directorate; National Preparedness Task Force (NPTF) State Domestic Preparedness Program, State and Local Survey Submission For Review; Reinstatement Previously Discontinued Information Collection Request

AGENCY: National Preparedness Task Force, Preparedness Directorate, DHS.

ACTION: Notice; 30-day notice of information collections under review; reinstatement previously discontinued information collection request for the State Domestic Preparedness Program, State and Local Survey.

SUMMARY: The Department of Homeland Security (DHS) has submitted the following information collection request (ICRs) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collections were previously published in the **Federal Register** on October 12, 2006, volume 71, page 60160 allowing for OMB review and a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments are encouraged and will be accepted until March 26, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/ Preparedness, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

The Office of Management and Budget is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/ National Preparedness Task Force, Washington, DC 20528; and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

SUPPLEMENTARY INFORMATION:

Analysis

Agency: Department of Homeland Security, Preparedness Directorate, National Preparedness Task Force.

Title: Fiscal Year 2003 State Domestic Preparedness Program.

OMB No.: 1651-0101.

Frequency: On occasion.

Affected Public: Primary, State, Local and Tribal Government.

Estimated Number of Respondents: 2,059 respondents.

Estimated Time Per Respondent: .33 hour per response.

Total Burden Hours: 679.47.

Total Burden Cost: (capital/startup): None.

Total Burden Cost: (operating/maintaining): None.

Description: This data collection will allow states to: (1) Report current jurisdictional needs for equipment, training, exercises and technical assistance; (2) forecast projected needs for this support and (3) identify the gaps that exist at the jurisdictional level in equipment, training and technical assistance that NPTF and other federal agencies in to the formulation of in the formulation of domestic preparedness policies and with the development of programs to enhance state and local first responder capabilities.

Charlie Church,

Chief Information Officer, Preparedness Directorate.

[FR Doc. E7-3064 Filed 2-22-07; 8:45 am]

BILLING CODE 4410-10-P

DEPARTMENT OF HOMELAND SECURITY

Preparedness Directorate, Office of Infrastructure Preparedness; Submission for New Collection (Chemical Facility Security Training Program)

AGENCY: Preparedness Directorate, Office of Infrastructure Preparedness, Department of Homeland Security.

ACTION: Notice; 60-day notice request for comments.

SUMMARY: The Department of Homeland Security (DHS) invites the general public and other federal agencies the opportunity to comment on approved information collection request (ICR) OMB 1670-NEW. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104-13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104-106), DHS is soliciting comments for the approved information collection request.

DATES: Written comments should be received on or before April 24, 2007 to be assured consideration.

ADDRESSES: OIP CNPPD, Attn: Amy Freireich, 1800 South Bell Street 8th Floor, Arlington, VA 22202 or e-mail amy.freireich@hq.dhs.gov or call 703-605-1203.

FOR FURTHER INFORMATION CONTACT: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/ Preparedness Directorate, Office of Infrastructure Protection, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

SUPPLEMENTARY INFORMATION: Direct all written comments to both the Department of Homeland Security and the Office of Information and Regulatory Affairs at the above addresses. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Paperwork Reduction Act Contact listed above.

The Office of Management and Budget is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, Preparedness Directorate, Office of Infrastructure Preparedness.

Title: DHS Chemical Facility Security Training Program.

OMB Number: 1670-NEW.

Frequency: Annually.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 400,000.

Estimated Time Per Respondent: 60 minutes.

Total Burden Hours: 400,000.

Total Burden Cost: (capital/startup): \$0.

Total Burden Cost: (operating/maintaining): \$16,000 annually.

Description: The DHS Chemical and Nuclear Preparedness and Protection Division (CNPPD) is providing an Internet on-line voluntary training program to improve security in the chemical industry sector. Information is automatically collected in a computer database as result of individuals engaging in the training. Explicit reporting or recordkeeping is not required. The training is designed for the general chemical facility employee. U.S. chemical industry direct employment is about 882,000 (2004 per American Chemistry Council); approximately half of employees are estimated as potential participants. Estimated duration of training is 30 to 60 minutes in first year, and less if individuals do "refresher" in succeeding years. Minimal participation data are collected automatically as trainee completes the on-line exercises.

Upon completion, a Certificate of Completion is generated at the trainee's computer work station, printed and optionally e-mailed to a facility supervisor. DHS will monitor program participation, success in training and basic distribution variables submitted upon registration, but not personal identification, and may analyze and report to government management, Congress and the public periodically.

Charlie Church,

Director, Information and Technology Division, Chief Information Officer, Preparedness Directorate.

[FR Doc. E7-3065 Filed 2-22-07; 8:45 am]

BILLING CODE 4410-10-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5117-N-20]

Notice of Submission of Proposed Information Collection to OMB; Multifamily Default Status Report

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been 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.

Mortgagees use this report to notify HUD that a project owner had defaulted on their mortgage and that an assignment of mortgage will result if HUD and the mortgagor do not develop a plan for reinstating the loan.

DATES: *Comments Due Date:* March 26, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502-0041) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202-395-6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports

Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian.L.Deitzer@HUD.gov* or telephone (202) 708-2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://hlannwp031.hud.gov/po/i/icbts/collectionsearch.cfm*.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting 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: Multifamily Default Status Report.

OMB Approval Number: 2502-0041.

Form Numbers: HUD-92426.

Description of the need for the information and its proposed use: Mortgagees use this report to notify HUD that a project owner has defaulted on their mortgage and that an assignment of mortgage will result if HUD and the mortgagor do not develop a plan for reinstating the loan.

Frequency of Submission: On occasion, Other Reporting required when default occurs.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	98	116		0.16		1,894.

Total Estimated Burden Hours: 1,894.
 Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 15, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7-3047 Filed 2-22-07; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5125-N-08]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: February 23, 2007.

FOR FURTHER INFORMATION CONTACT:

Kathy Ezzell, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708-1234;

TTY number for the hearing- and speech-impaired (202) 708-2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: February 15, 2007.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 07-769 Filed 2-22-07; 8:45 am]

BILLING CODE 4210-67-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for endangered species and/or marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358-2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358-2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and/or the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permit(s) subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) The application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in Section 2 of the Endangered Species Act of 1973, as amended.

Permit No.	Applicant	Receipt of application Federal Register notice	Permit issuance date
Endangered Species			
134857	Ralph S. Cunningham	71 FR 64289; November 1, 2006	December 4, 2006.
135139	John J. Wolfe	71 FR 64289; November 1, 2006	December 4, 2006.
135611	William Toreillo	71 FR 64289; November 1, 2006	December 4, 2006.
137561	Robert S. Bass	71 FR 66187; November 13, 2006	December 21, 2006.
138562	Albert G. Johnson	71 FR 66187; November 13, 2006	December 21, 2006.
135130	Theodore M. Fowler ..	71 FR 62291; October 24, 2006	December 5, 2006.
137378	James E. Young	71 FR 62291; October 24, 2006	December 5, 2006.
134247	Harry J. Daily	71 FR 64289; November 1, 2006	December 5, 2006.
138211	Kenneth R. Sardegna	71 FR 66187; November 13, 2006	December 15, 2006.
Marine Mammals			
127905	Kent Fagen	71 FR 48938; August 22, 2006	December 18, 2006.
125179	Warren L. Strickland ..	71 FR 35692; June 21, 2006	January 4, 2007.

Dated: January 5, 2007.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E7-3129 Filed 2-22-07; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by March 26, 2007.

ADDRESSES: Documents and other information submitted with these

applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358-2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358-2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Lemur Conservation Foundation, Myakka City, FL, PRT-137431.

The applicant request a permit to import three live captive born ring-tailed lemurs (*Lemur catta*) from Parc Aquarium du Quebec/SEPAQ, Charlesbourg, Quebec, Canada for the purpose of enhancement of the survival of the species through captive propagation and scientific research.

Applicant: John D. Greve, Decatur, IL, PRT-142929.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Leon J. Munyan, Phoenix, AZ, PRT-144108.

The applicant requests a permit to import the sport-hunted trophy of one [female] scimitar-horned oryx (*Oryx dammah*) culled from a captive herd in the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and

the regulations governing marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Jonathan M. Olson, Madison, WI, PRT-143920.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Western Hudson Bay polar bear population in Canada for personal, noncommercial use.

Dated: January 12, 2007.

Michael L. Carpenter,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E7-3132 Filed 2-22-07; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by March 26, 2007.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358-2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358-2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with

endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: University of Illinois, Dept. of Biological Sciences, Chicago, IL, PRT-132400.

The applicant requests a permit to re-export DNA and whole blood samples of Baird's tapir (*Tapirus bairdii*) for the purpose of scientific research.

Applicant: James M. Morris II, Oklahoma City, OK, PRT-143976.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Arthur W. Korson, Dryden, MI, PRT-134167.

The applicant requests a permit to import the sport-hunted trophy of one male scimitar-horned oryx (*Oryx dammah*) culled from a captive herd in the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Thomas M. Sharko, Milford, NJ, PRT-131154.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Applicant: James Slattery, Woodward, OK, PRT-133514.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern

Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Dated: January 5, 2007.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E7-3138 Filed 2-22-07; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by March 26, 2007.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358-2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358-2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: National Zoological Park (Smithsonian), Washington, DC, PRT-135928, 135929

The applicant requests two permits to import semen samples collected from three captive born Asian elephants (*Elephas maximus*) from African Lion Safari, Ontario, Canada, and the Calgary

Zoo, Alberta, Canada for scientific research.

Applicant: National Marine Fisheries Service, Miami, FL, PRT-045532.

The applicant requests an amendment and re-issuance of their permit to import and/or introduce from the sea, biological samples collected from the wild on the high seas, both from opportunistically salvaged and incidentally captured specimens of Kemp's ridley sea turtle (*Lepidochelys kempii*), hawksbill sea turtle (*Eretmochelys imbricata*), and leatherback sea turtle (*Dermochelys coriacea*) for the purpose of scientific research. The amendment request is for the import of biological samples collected on land, opportunistically from wild and captive-held salvaged specimens of Kemp's ridley sea turtle (*Lepidochelys kempii*), hawksbill sea turtle (*Eretmochelys imbricata*), leatherback sea turtle (*Dermochelys coriacea*), green sea turtle (*Chelonia mydas*), and olive ridley sea turtle (*Lepidochelys olivacea*). This notification covers activities conducted by the applicant over a period of 5 years.

Applicant: William R. Kahl, East Lansing, MI, PRT-145458.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: John F. Cedarberg, Eagan, MN, PRT-144847.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete application or requests for a public hearing on this application should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons

why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Chris C. Hudson, Dallas, TX, PRT-145883.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Western Hudson Bay polar bear population in Canada for personal, noncommercial use.

Dated: February 2, 2007.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E7-3134 Filed 2-22-07; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species.

DATES: Written data, comments or requests must be received by March 26, 2007.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358-2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358-2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: The Institute of Greatly Endangered and Rare Species

(T.I.G.E.R.S.), Surfside Beach, SC, PRT-130309.

The applicant requests a permit to import one male and two female captive-born cheetahs (*Acinonyx jubatus*) from DeWildt Cheetah and Wildlife Centre, DeWildt, South Africa for the purpose of enhancement of the species through conservation education.

Applicant: Nashville Zoo, Nashville, TN, PRT-144911.

The applicant requests a permit to import one male captive-born Central American tapir (*Tapirus bairdii*) from Zoologico La Marina, San Jose, Costa Rica for the purpose of enhancement of the species through captive breeding.

Applicant: Cincinnati Zoo, Cincinnati, OH, PRT-145194.

The applicant requests a permit to import semen samples from black-footed cats (*Felis nigripes*) from the wild in South Africa in cooperation with the Government of South Africa for scientific research in an ongoing study "Biomedical Assessment of free-ranging black-footed cats in South Africa". This notification covers activities to be conducted by the applicant over a five-year period.

Applicant: Jose P. De Ayala, Honolulu, HI, PRT-144838.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Arthur P. Hoffart, Bozeman, MT, PRT-144999.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Tarzan Zerbini, Webb City, MO, PRT-065144, 065145, 065146, 065148, 065149, and 088344.

The applicant requests permits to export captive elephants (*Elephas maximus*) to worldwide locations for the purpose of enhancement of the species through conservation education. *The permit numbers and animals are:* 065144, Jan; 065145, Roxy; 065146, Shelly; 065148, Bunny; 065149, Marie; and 088344, Luke. This notification covers activities to be conducted by the applicant over a three-year period and the import of any potential progeny born while overseas.

Dated: January 26, 2007.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E7-3133 Filed 2-22-07; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Back Bay National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental assessment for Back Bay National Wildlife Refuge; request for comments.

SUMMARY: This notice advises the public that the Fish and Wildlife Service (Service) intends to prepare a Comprehensive Conservation Plan (CCP) and Environmental Assessment (EA), pursuant to the National Environmental Policy Act of 1969 (NEPA) and its implementing regulations, for Back Bay National Wildlife Refuge (NWR), located within the City of Virginia Beach, Virginia. This notice also advises the public that the Service is withdrawing a previous notice, published on May 8, 2002, stating that an Environmental Impact Statement (EIS) would be developed for the refuge. Comments already received under the previous notice will be considered during preparation of the subject CCP/EA.

The Service is furnishing this notice in compliance with the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd *et seq.*): (1) To advise other agencies and the public of our intentions, and (2) to obtain suggestions and information on the scope of issues to include in the environmental documents.

DATES: Please provide any comments on the subject CCP/EA by March 26, 2007. The Service will notify the public of subsequent meetings on development of the proposed CCP/EA via **Federal Register** notice and other means, including special mailings, newspaper articles, and Web site announcements. Inquire at the address below for future dates of planning activity.

ADDRESSES: Address comments, questions, and requests for more information to the following: Refuge Manager, Back Bay National Wildlife Refuge, 4005 Sandpiper Road, Virginia Beach, VA 23456-4325, 757-721-2412.

FOR FURTHER INFORMATION CONTACT:

Thomas Bonetti, Refuge Planner, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035, telephone 413-253-8307, fax 413-253-8468, electronic mail tom_bonetti@fws.gov.

SUPPLEMENTARY INFORMATION: By Federal law, all lands within the National Wildlife Refuge System are to be managed in accordance with an approved CCP. The CCP guides management decisions and identifies refuge goals, long-range objectives, and strategies for achieving refuge purposes. Public input into this planning process is essential. The CCP will provide other agencies and the public with a clear understanding of the desired conditions for the refuges and how the Service will implement management strategies. Public input into this planning process is essential.

The Service began soliciting information from the public in early 2002 via open houses, meetings, and written comments. Special mailings, newspaper articles, and Web site announcements helped to inform the public in the area near the refuge of the time and place of opportunities for input to the CCP.

The Service has determined that, at this time, an EA is a more appropriate document than an EIS to accompany the CCP. The need to prepare an EIS is a matter of professional judgment requiring consideration of all issues in question. If the EA determines that the CCP will constitute a major Federal action significantly affecting the quality of the human environment, an EIS will then be prepared. The primary purpose of an EIS is to ensure that a full and fair discussion of all significant environmental impacts occurs, and to inform decision makers and the public of the reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment.

Review of this project will be conducted in accordance with the requirements of the NEPA, as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR parts 1500-1508), other appropriate Federal laws and regulations, and Service policies and procedures for compliance with those regulations. Concurrent with the CCP process, the Service will conduct a wilderness review and incorporate a summary of the review into the CCP, as well as include compatibility determinations for all applicable refuge uses. We estimate that the Draft CCP/EA will be available in 2007.

Dated: August 28, 2006.

Marvin E. Moriarty,

Regional Director, Region 5, U.S. Fish and Wildlife Service, Hadley, Massachusetts.

Editorial Note: This document was received by the Office of the Federal Register on February 20, 2007.

[FR Doc. E7-3110 Filed 2-22-07; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Revised Comprehensive Conservation Plan and Environmental Assessment for Innoko National Wildlife Refuge, Alaska

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service, we), will be developing a revised Comprehensive Conservation Plan (CCP) and Environmental Assessment (EA) for Innoko National Wildlife Refuge (Refuge). We will use special mailings, newspaper articles, and other media announcements to inform the public of opportunities to provide input throughout the planning process. We will hold public meetings in communities near the Refuge (Grayling, Anvik, Shageluk, Holy Cross, Kaltag, McGrath and Takotna).

DATES: Please provide written comments on the scope of the CCP revision on or before 30 days from the date of publication of this Notice.

ADDRESSES: Address comments, questions, and requests for further information to: Rob Campellone, Planning Team Leader, Division of Conservation Planning and Policy, 1011 East Tudor Rd., MS-231, Anchorage, Alaska 99503. Comments may be faxed to (907) 786-3965, or e-mail to Innoko_Plan@fws.gov. Additional information about the refuge is available on the Internet at: <http://alaska.fws.gov/nwr/planning/innpol.htm>.

FOR FURTHER INFORMATION CONTACT: Rob Campellone, Planning Team Leader, at (907) 786-3982.

SUPPLEMENTARY INFORMATION:

Established by the Alaska National Interest Lands Conservation Act (94 Stat. 2371) in 1980, Innoko Refuge covers some 3,850,000 acres and is one of the most important waterfowl areas in west central interior Alaska. Approximately half of the refuge consists of wetlands set with innumerable lakes and ponds of varying size. The remainder is marked by hills,

most of which are less than one thousand feet in elevation. Almost one-third of the refuge is designated Wilderness. The route of the historic Iditarod Trail crosses the Refuge.

Refuge purposes include (1) Conservation of fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl peregrine falcons, other migratory birds, black bear, moose, furbearers, and other mammals and salmon; (2) fulfilling the international treaty obligations of the United States with respect to fish and wildlife and their habitats; (3) providing, in a manner consistent with purposes (1) and (2) above, the opportunity for continued subsistence by local residents; and ensuring, to the maximum extent practicable and in a manner consistent with purpose (1) above, water quality and necessary water quantity within the refuge.

We furnish this notice in accordance with the Alaska National Interest Lands Conservation Act, the National Wildlife Refuge System Administration Act as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd-688ee), and Service policies.

These laws and policies require all lands within the National Wildlife Refuge System to be managed in accordance with an approved CCP. A CCP is a 15-year plan for managing a refuge. Refuge goals and objectives are identified in a CCP. During the CCP process, we will consider many elements, including conservation of the Refuge's fish and wildlife populations and habitats in their natural diversity; facilitation of subsistence use by local residents, access for traditional activities; and conservation of resource values including cultural resources, wilderness and rivers. The final revised CCP will detail the programs, activities, and measures necessary to best administer the Refuge to protect these values and fulfill refuge purposes over the next 15-years. Until the revised CCP is completed, management will continue to be guided by the original CCP, Federal legislation regarding management of National Wildlife Refuges, and other legal, regulatory, and policy guidance.

Public Meetings: We plan to hold public meetings in communities near the Refuge: Grayling, Anvik, Shageluk, Holy Cross, Kaltag, McGrath and Takotna. Meetings will be held between December 1 and the end of February as weather conditions permit. Each meeting will be announced, in advance, locally.

Dated: February 16, 2007.

Thomas O. Melius,

Regional Director, U.S. Fish & Wildlife Service, Anchorage, Alaska.

[FR Doc. E7-3108 Filed 2-22-07; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Wapack National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent: preparation of a comprehensive conservation plan and environmental assessment; request for comment.

SUMMARY: The U.S. Fish and Wildlife Service (Service, we) intends to gather information necessary to prepare a comprehensive conservation plan (CCP) and environmental assessment (EA) for Wapack National Wildlife Refuge (NWR) in Greenfield, Lyndeborough, and Temple, New Hampshire. We furnish this notice in compliance with our CCP policy to advise other agencies and the public of our intentions, and to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: We will hold a public open house meeting to begin the CCP planning process; see **SUPPLEMENTARY INFORMATION** for date, time, and location.

ADDRESSES: Wapack National Wildlife Refuge, c/o Great Bay National Wildlife Refuge, 100 Merrimac Drive, Newington, New Hampshire 03801-2903, at 603-431-7511 (telephone); 603-431-6014 (FAX); fw5rw_gbnwr@fws.gov (e-mail); <http://www.fws.gov/Refuges/profiles/index.cfm?id=53572> (Web site).

FOR FURTHER INFORMATION, CONTACT: Lelaina Marin, Assistant Refuge Planner, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035; 413-253-8731 (telephone); 413-253-8468 (FAX); northeastplanning@fws.gov (e-mail).

SUPPLEMENTARY INFORMATION: With this notice, we initiate the CCP for Wapack NWR with headquarters in Newington, New Hampshire. We will hold a public open house and announce its location, date, and time at least 2 weeks in advance, in special mailings and local newspaper notices, on our Web site, and through personal contacts. Additional public information sessions in the local community are available upon request.

Under the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife

Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), the Service is to manage all lands in the National Wildlife Refuge System in accordance with an approved CCP. The plan guides management decisions and identifies refuge goals, management objectives, and strategies for achieving refuge purposes over a 15-year period.

The planning process will cover many elements, including wildlife and habitat management, visitor and recreational activities, wilderness area management, cultural resource protection, and facilities and infrastructure.

Compatibility determinations will be completed for all applicable refuge public uses. We will also conduct a wilderness review on refuge lands to determine whether any areas on the refuge qualify for those Federal designations.

Public input into the planning process is essential. The comments we receive will help identify key issues and refine our goals and objectives for managing refuge resources and visitor use.

Additional opportunities for public participation will arise throughout the planning process, which we expect to complete by September 2008. We are presently summarizing refuge data and collecting other resource information to provide us a scientific basis for our resource decisions. We will prepare the EA in accordance with the Council on Environmental Quality procedures for implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370d).

The 1,672-acre Wapack NWR, established through donation in 1972, was New Hampshire's first national

wildlife refuge. It is administered by Great Bay NWR, headquartered in Newington, New Hampshire. Its purpose is for use as an inviolate sanctuary or any other management purpose for migratory birds. The refuge is located about 20 miles west of Nashua, New Hampshire, and encompasses the 2,278-foot North Pack Monadnock Mountain in the towns of Greenfield, Lyndeborough, and Temple. The terms of the deed of donation require the Service to manage the refuge as a “wilderness” for wildlife. Specific restrictions include prohibiting hunting, fishing, trapping, motorized vehicles and tree cutting.

Generally, refuge lands are characterized by mature northern hardwood-mixed and conifer (spruce-fire) forest. These forests provide nesting habitat for numerous migratory songbirds, such as the black-capped chickadee, blackburnian warbler, black-throated blue warbler, hermit thrush, myrtle warbler, ovenbird and red-eyed vireo. The refuge also supports a wide variety of wildlife, including deer, bear, coyote, fisher, fox, mink and weasel.

Refuge visitors annually engage in wildlife observation and photography. The refuge is especially popular as a hawk migration viewing area. A 3-mile segment of the 21-mile Wapack Trail, a spur of the Appalachian Trail, traverses the refuge and rewards hikers with a beautiful view of the surrounding mountains.

Dated: January 19, 2007.

Richard O. Bennett,

Acting Regional Director, U.S. Fish and Wildlife Service, Hadley, Massachusetts.

[FR Doc. E7–3111 Filed 2–22–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permit for marine mammals.

SUMMARY: The following permit was issued.

ADDRESSES: Documents and other information submitted with this application is available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein.

Permit No.	Applicant	Receipt of application Federal Register notice	Permit issuance date
Marine Mammals			
125869	MaryAnne Sackman	71 FR 48938; August 22, 2006	January 8, 2007.

Dated: January 12, 2007.

Michael L. Carpenter,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E7–3131 Filed 2–22–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Trinity Adaptive Management Working Group

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Trinity Adaptive Management Working Group (TAMWG) affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the Trinity Management Council. Primary objectives of the meeting will include discussion of the following topics: Trinity River Restoration Program (TRRP) FY08 budget, 2007 Trinity River flow schedule, TRRP science program issues, 2006 salmon returns, salmon disease and mortality studies, Central Valley Project Improvement Act program review, TRRP executive

director's report, and election of TAMWG officers. Completion of the agenda is dependent on the amount of time each item takes. The meeting could end early if the agenda has been completed. The meeting is open to the public.

DATES: The Trinity Adaptive Management Working Group will meet from 1 p.m. to 5 p.m. on Monday, March 19, 2007 and from 8:30 a.m. to 5 p.m. on Tuesday, March 20, 2007.

ADDRESSES: The meeting will be held at the Weaverville Victorian Inn, 1709 Main St., 299 West, Weaverville, 96093. For more information, please contact the U.S. Fish and Wildlife Service, 1655

Heindon Road, Arcata, 95521. For background information and questions regarding the Trinity River Restoration Program, please contact Douglas Schleusner, Executive Director, Trinity River Restoration Program, P.O. Box 1300, 1313 South Main Street, Weaverville, 96093.

FOR FURTHER INFORMATION CONTACT: Randy A. Brown of the U.S. Fish and Wildlife Service, Arcata Fish and Wildlife Office, telephone: (707) 822-7201. Randy A. Brown is the working group's Designated Federal Officer. For questions regarding the Trinity River Restoration Program, please contact Douglas Schleusner, Executive Director, telephone: (530) 623-1800.

SUPPLEMENTARY INFORMATION: Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), this notice announces a meeting of the Trinity Adaptive Management Working Group (TAMWG).

Dated: February 15, 2007.

Randy A. Brown,

Designated Federal Officer, Arcata Fish and Wildlife Office, Arcata, CA.

[FR Doc. E7-3106 Filed 2-22-07; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Availability of a Draft Environmental Impact Statement for the Bald Mountain Ski Resort Master Development Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA) the Bureau of Land Management publishes a Notice of Availability (NOA) of a Draft Environmental Impact Statement (DEIS) for the Bald Mountain Ski Resort Master Development Plan, the purpose of which is to analyze and disclose the effects of the updated Bald Mountain Ski Area Master Development Plan and 40-year term ski permit application.

DATES: The DEIS will be available for review and comment for 45 calendar days from the date of this publication which coincides with the NOA published in the **Federal Register** by the Environmental Protection Agency (EPA). The Forest Service and Bureau of Land Management (BLM) can best use comments and resource information if they are submitted by, or before, close of business the last day of the comment

and review period. If you are uncertain as to what constitutes acceptable comment format or when comments are due, please contact Joe Miczulski, Winter Sports Manager at the Ketchum Ranger District; P.O. Box 2356, Ketchum, ID 83340; or phone at (208) 622-5371. Public meetings will be held to solicit comments on the DEIS on the update to the Master Development Plan for Bald Mountain Ski Resort. Dates and locations for these meetings will be published in the Idaho Mountain Express, Boise Statesman and Twin Falls Times News.

ADDRESSES: A copy of the DEIS was sent to affected Federal, State, and local government agencies and to interested parties. The document is also available electronically on the following Web site: <http://www.fs.fed.us/r4/sawtooth/projects>. Copies of the DEIS will be available for public inspection at the following locations: Ketchum Ranger District, 206 Sun Valley Road, Ketchum, ID 83340, Business Hours 8:30 a.m.-5 p.m.

FOR FURTHER INFORMATION CONTACT: John Kurtz, Outdoor Recreation Planner at the Shoshone Field Office of the Twin Falls District, 400 West F Street, Shoshone, ID 83352; or phone at (208) 732-7296. Requests for information may be sent electronically to: john_kurtz@blm.gov with "Attention: Bald Mountain DEIS Information Request" in the subject line.

SUPPLEMENTARY INFORMATION: The majority of Sun Valley Resort's Bald Mountain Ski Area is located on public lands under the jurisdiction of both the U.S.D.A. Forest Service (Forest Service) and the U.S.D.I. Bureau of Land Management (BLM). The ski area is administered through two jointly-issued Special Use Permits (SUP), totaling approximately 3,325 acres (1,969 of which are administered by the Sawtooth National Forest, and 1,356 are administered by the BLM's Twin Falls District).

Sun Valley Company has requested a new 40-year term ski area permit for the Bald Mountain Ski Resort. The existing ski area permit, which was issued in December 1977, expires December 2007. One requirement for a ski area permit is to have an approved Master Development Plan (MDP), which is prepared by the permit holder and encompasses the entire winter sports resort envisioned for development and authorization by the permit. Upon acceptance by the Authorized Officers, the MDP becomes part of the ski area permit. The EIS will analyze the effects of the proposed action and alternatives. The agencies give notice of the National

Environmental Policy Act (NEPA) analysis and decision making process on the proposal so interested and affected members of the public may participate and contribute to the final decision. The Sawtooth National Forest, as the lead for both agencies, invites written comments and suggestions on the scope of the analysis and issues addressed.

The 1989 MDP currently guides the Forest Service and BLM in their administration of the special use permit for the ski area. A majority of the actions described in the 1989 MDP have been implemented. Given the age and status of the 1989 MDP, the Forest Service, BLM and Sun Valley Company determined that an updated plan would be appropriate at this time. The Sun Valley Company has updated their MDP for Bald Mountain Ski Area and presented it to the Forest Service and BLM in conjunction with their request for a new 40-year permit to continue operating on these public lands. The existing permit expires December 2007.

The draft MDP as submitted by Sun Valley Company is available electronically on the following Web sites: Sawtooth National Forest—<http://www.fs.fed.us/r4/Sawtooth> and Sun Valley Company—<http://www.sunvalley.com>. An approved MDP will guide development on Bald Mountain Ski Area. Anticipated projects include new ski trail development both inside and outside of the current permit boundary, additional snowmaking installation, existing ski run modification, installation of new ski lifts, including gondola, removal of some existing ski lifts, and addition of a mountain restaurant. A Vegetation Management Plan (VMP) will be analyzed concurrently with the proposed MDP. The VMP will access current conditions of vegetation components on Bald Mountain, both with respect to timber and grass/forb species. The VMP will specify treatments necessary to enact, that will ensure long-term health of vegetation on Bald Mountain.

Purpose and Need for Action

The purpose and need for the proposed Master Development Plan (MDP) is to update the 1989 MDP to reflect current conditions and needs at the ski resort. Most of the improvements described in the 1989 MDP have been implemented. In addition, new ski area technologies, updated Land Management Plans, and changes in the environment have emerged during this time which warrant consideration in an updated MDP.

Proposed Action

The proposed action analyzes the implementation of the MDP as submitted by the Sun Valley Company. The agencies have a responsibility to determine consistency of the MDP with their respective Land Management Plans, to evaluate if any proposed facilities are in hazardous areas (i.e. avalanche path); evaluate if improvements are an appropriate use of Forest Service and BLM land; determine if private land is available to accomplish the proposed activities; and to make a public interest determination.

Alternatives Identified

Alternatives identified include: Alt. 1—No Action (continuing the present course of action). The existing MDP would not be updated. The ski area permit would be renewed in 2007 and the current MDP would be made part of it. Alt. 2—Proposed Action, the MDP as submitted by Sun Valley Company, would be attached to a new ski area permit. Alt. 3—An alternative which meets the purpose and need to update the MDP, but varies from the actions submitted by Sun Valley Company.

How To Submit Comments

Comments must be submitted using one of the following methods:

1. Comments may be electronically mailed to comments-intermtn-sawtooth-ketchum@fs.fed.us with "Attention: Bald Mountain DEIS" in the subject line. Avoid the use of special characters or any form of encryption. If you do not receive a confirmation from our system that your comment has been received, please contact Joe Miczulski, Winter Sports Manager at the Ketchum Ranger District; P.O. Box 2356, Ketchum, ID 83340; or phone at (208)–622–5371.

2. Written comments may be mailed directly or delivered to the Forest Service at: Joe Miczulski, Winter Sports Manager at the Ketchum Ranger District; P.O. Box 2356, Ketchum, ID 83340; or phone at (208)–622–5371.

3. Comments may be sent via telefax to the Forest Service, Attn: Joe Miczulski, (208)–622–3923.

4. Comments may be given at the public meetings to be scheduled.

To be given consideration by BLM, all DEIS comments must include the commenter's name and street address. BLM's practice is to make all comments, including the names and street addresses of each respondent, available for public review at the BLM office listed above during business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except for Federal holidays. Your comments may be published as

part of the EIS process. Individual respondents may request confidentiality. If you wish to withhold your name, street address or both from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comments. Such requests will be honored to the extent allowed by law. BLM will not consider anonymous comments. All submissions from organizations or businesses will be made available for public inspection in their entirety.

Howard Hedrick,

District Manager.

[FR Doc. E7–3083 Filed 2–22–07; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–923–1430-ET; COC–70704]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Secretary of the Interior proposes to withdraw three small sites totaling 22.36 acres of public lands from surface entry and mining for a period of 20 years to protect maternity roosts of Townsend's Big-eared Bats in Mesa, Montrose, and San Miguel counties, Colorado. This notice segregates the public lands from surface entry and mining for up to 2 years while various studies and analyses are made to support a final decision on the withdrawal application.

DATES: Comments and requests for a public meeting must be received by May 24, 2007.

ADDRESSES: Comments and meeting requests should be sent to the Colorado State Director, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

FOR FURTHER INFORMATION CONTACT: Andrew J. Senti, BLM Colorado State Office, 303–239–3713.

SUPPLEMENTARY INFORMATION: The applicant is the Bureau of Land Management (BLM) at the address stated above. The petition/application requests the Secretary of the Interior to withdraw, for a period of 20 years and subject to valid existing rights, the following described public land from settlement, sale, location or entry under the general land laws, including mining laws, but not the mineral leasing laws:

New Mexico Principal Meridian

T. 47 N., R. 17 W.,

Sec. 11, a metes and bounds parcel within the NW¹/₄NW¹/₄.

T. 49 N., R. 17 W.,

Sec. 4, a metes and bounds parcel within the NE¹/₄NW¹/₄.

T. 43 N., R. 18 W.,

Sec. 15, a metes and bounds parcel within the SW¹/₄NE¹/₄.

The areas described aggregate 22.36 acres in Mesa, Montrose, and San Miguel Counties.

The BLM petition/application has been approved by the Assistant Secretary, Land and Minerals Management, therefore, it constitutes a withdrawal proposal of the Secretary of the Interior (43 CFR 2310.1–3(e)).

The use of a right-of-way, interagency agreement, cooperative agreement or surface management under 43 CFR part 3809 regulations would not adequately constrain non-discretionary uses that could irrevocably affect bat maternity roosts.

There are no suitable alternative sites, since the lands described contain the resources that need protection.

No water rights will be needed to fulfill the purpose of the withdrawal.

The potential for locatable minerals is considered to be low.

The purpose of the withdrawal is to preserve old mine workings on three small sites on public lands that contain a unique and favorable physical environment for maternity roosts of the Townsend's Big-eared Bat, currently designated as a sensitive species by the BLM in Colorado.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the BLM Colorado State Director at the address listed above.

Comments including names and street addresses of respondents, will be available for public review at the BLM Colorado State Office, during regular business hours, 7:45 a.m. to 4:15 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by the law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request no later than May 24, 2007. Upon determination by the authorized officer that a public meeting will be held, a notice of the time, place, and date will be published in the **Federal Register** and a local newspaper at least 30 days before the scheduled date of the meeting.

This withdrawal proposal will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the public lands and minerals will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date.

Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature which will not significantly impact the values to be protected by the withdrawal may be allowed with the approval of the authorized officer of the BLM during the segregative period.

Authority: 43 CFR 2310.3-1(a).

Dated: December 28, 2006.

John D. Beck,

Chief, Branch of Lands and Realty.

[FR Doc. E7-3085 Filed 2-22-07; 8:45 am]

BILLING CODE 4310-JB-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-921-1050-ET; WYW 87233]

Notice of Proposed Withdrawal Extension and Opportunity for Public Meeting; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) proposes to extend the duration of Public Land Order (PLO) No. 6650 for an additional 20-year term. PLO No. 6650 withdrew 20 acres of public lands from settlement, sale, location, and entry under the general land laws, including the mining laws, to protect the Sugarloaf Petroglyphs and Pine Spring Archeological Sites in Sweetwater County. This notice also gives an opportunity to comment on the

proposed action and to request a public meeting.

DATES: Comments and requests for a public meeting must be received by May 24, 2007.

ADDRESSES: Comments and meeting requests should be sent to the BLM Wyoming State Director, P.O. Box 1828, Cheyenne, Wyoming 82003-1828.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM, Wyoming State Office, 307-775-6124 or at the above address.

SUPPLEMENTARY INFORMATION: The withdrawal created by PLO No. 6650 (52 FR 23549) will expire on June 22, 2007, unless extended. The BLM has filed an application to extend PLO No. 6650 for an additional 20-year term. The withdrawal was made to protect important educational, scientific, cultural, and recreational values of the Sugarloaf Petroglyphs and Pine Spring Archeological Sites, on public lands described as follows.

Sixth Principal Meridian

T. 14 N., R. 107 W.,

Sec. 27, E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$.

T. 14 N., R. 109 W.,

Sec. 19, S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 30, NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$.

The areas described aggregate 20 acres in Sweetwater County.

The purpose of the proposed extension is to continue the withdrawal created by PLO No. 6650 for an additional 20-year term to protect the educational, scientific, cultural, and recreational values of the Petroglyphs and Pine Spring Archeological Sites.

The use of a right-of-way, interagency, or cooperative agreement would not adequately constrain nondiscretionary uses which could result in permanent loss of significant values and irreplaceable resources at the sites.

There are no suitable alternative sites since the lands described herein contain the resource values that need protection.

No water rights would be needed to fulfill the purpose of the requested withdrawal extension.

Records relating to the application may be examined by contacting Janet Booth at the above address or 307-775-6124.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed extension may present their views in writing to the BLM Wyoming State Director at the address noted above.

Comments, including names and street addresses of respondents, will be available for public review at the Rock

Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming, during regular business hours 7:30 a.m. to 4:30 p.m. Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal extension. All interested persons who desire a public meeting for the purpose of being heard on the proposed extension must submit a written request to the BLM, Wyoming State Director within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

This withdrawal extension proposal will be processed in accordance with the regulations set forth in 43 CFR 2310.4.

(Authority: 43 CFR 2310.3-1)

Dated: February 7, 2007.

Melvin Schugel,

Realty Officer.

[FR Doc. E7-3084 Filed 2-22-07; 8:45 am]

BILLING CODE 4310-22-P

DEPARTMENT OF LABOR

Employment and Training Administration

[SGA/DFA-PY 06-01]

Solicitation for Grant Applications (SGA); Women in Apprenticeship and Nontraditional Occupations (WANTO) Grants

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice; Amendment to SGA/DFA-PY-06-01.

SUMMARY: The Employment and Training Administration published a document in the **Federal Register** on February 13, 2007 announcing the availability of funds and solicitation for

grant applications (SGA) for the Women in Apprenticeship and Nontraditional Occupations (WANTO) grant programs. This notice is an amendment to the SGA and it amends the Supplementary Information section to correct the number of sections in this SGA.

FOR FURTHER INFORMATION CONTACT: James Stockton, Grant Officer, Division of Federal Assistance, at (202) 693-3335.

Supplementary Information

Correction: In the **Federal Register** of February 13, 2007, in FR Doc. E7-2400, in the first sentence (page 6768), "This SGA consists of eleven (11) sections" is corrected to read, "This SGA consists of eight (8) sections."

Date: This notice is effective February 23, 2007.

Signed at Washington, DC, this 16th day of February, 2007.

James W. Stockton,
Grant Officer.

[FR Doc. E7-3038 Filed 2-22-07; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: Comments on the petitions must be postmarked and received by the Office of Standards, Regulations, and Variances on or before March 26, 2007.

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *E-Mail:* Standards-Petitions@dol.gov.

2. *Telefax:* 1-202-693-9441.

3. *Hand-Delivery or Regular Mail:* Submit comments to the Mine Safety and Health Administration (MSHA), Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209,

Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.

We will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. If you submit your comments by hand-delivery, you are required to check in at the receptionist desk on the 21st floor.

Copies of the petitions and comments will be available during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Ria Moore Benedict, Deputy Director, Office of Standards, Regulations, and Variances at 202-693-9443 (Voice), benedict.ria@dol.gov (E-mail), or 202-693-9441 (Telefax), or you can contact Barbara Barron at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that an alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard, or that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modifications.

II. Petitions for Modification

Docket Number: M-2006-080-C.

Petitioner: Black Beauty Coal Company, 13101 Zeigler 11 Road, P.O. Box 369, Coulterville, Illinois 62237.

Mine: Gate Mine, (MSHA I.D. No. 11-02408) located in Randolph County, Illinois.

Regulation Affected: 30 CFR 75.364(b)(1) (Weekly examination).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of evaluation points in the Main East, North Side Intake entries due to deteriorating roof conditions. The petitioner proposes to establish evaluation point one at the No. 12 crosscut of the Main East, North Side Intake and the other evaluation point at the #50 crosscut of the Main East, North Side Intake. The petitioner states that by

monitoring the evaluation points on the pre-shift, examinations will provide the proper information to assure that the ventilation controls are in place and functioning properly; the pre-shift examination will be conducted by certified persons and will consist of measuring ventilation quality and quantity; and the results of the examinations will be recorded in a book kept on the surface and readily available to interested parties. The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection as the existing standard.

Docket Number: M-2006-081-C.

Petitioner: Oak Grove Resources, LLC, 8800 Oak Grove Mine Road, Adger, Alabama 35006.

Mine: Oak Grove Mine, (MSHA I.D. No. 01-00851), located in Jefferson County, Alabama.

Regulation Affected: 30 CFR 75.507 (Power connection points).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of high-voltage non-permissible, submersible pumps in boreholes in an area of its mine where water has accumulated which is not on intake air. The petitioner states that the pumps will be located within the boreholes, the electrical components of the pump will always be separated from the mine atmosphere, and the pumps will be under water continuously. The petitioner proposes to use the specific procedures outlined in this petition for modification. Persons may review a complete description of the procedures at the MSHA address listed in this notice. The petitioner asserts that the proposed alternative method will all times guarantee no less than the same measure of protection afforded the miners employed at Oak Grove Mine by the existing standard.

Docket Number: M-2006-082-C.

Petitioner: Rosebud Mining Company, 301 Market Street, Kittanning, Pennsylvania 16201.

Mine: Penfield Mine, (MSHA I.D. No. 36-09355), located in Kittanning County, Pennsylvania.

Regulation Affected: 30 CFR 75.1100-2(e)(2) (Quantity and location of firefighting equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternate method of compliance with the requirement for firefighting equipment at temporary electrical installations. The petitioner proposes to use two (2) fire extinguishers or one fire extinguisher of twice the required capacity at all

temporary electrical installations in lieu of using 240 pounds of rock dust. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by such standard.

Docket Number: M-2006-083-C.

Petitioner: Dominion Coal Corporation, P.O. Box 70, Vansant, Virginia 24656.

Mine: Dominion Mine No. 22, (MSHA I.D. No. 44-06645), located in Buchanan County, Virginia.

Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).

Modification Request: The petitioner requests a modification of the existing standard to allow abandoned mine openings to be covered with coarse scalp rock refuse material. Extension of existing refuse pile (Site ID #1211-VA5-0335-02) will cover the mine bench in an area containing abandoned mine openings. The petitioner states that: (1) There are a total of five (5) mine openings in the area to be filled with refuse at the Dominion Coal Corporation, Mine No. 22, and in the Tiller coal seam at the approximate elevation of 2085.00; and (2) the bench is the mine bench of the Dominion Mine No. 22 Tiller seam mine. The petitioner proposes to use the following methodology to seal the mine openings: (1) Remove of all sloughed overburden of 10 to 12 feet in front of and to either side of the drift openings in order to allow placement of suitable material for sealing; (2) Install a minimum 10-inch high-density polyethylene (PHDPE) pipe or PVC pipe wet seal in the lowest entry to prevent water from impounding in the mine void, cover the pipe with gravel, and extend the pipe through the fill area directed into the natural drainage course; (3) Backfill all drifts to a height of four (4) feet above the drift openings or to four (4) feet above any visible cracks above the drifts with an impervious, non-combustible material which would contain enough fines to ensure an airtight seal compacted to 90 percent of the Proctor and place backfill material in two (2) foot lifts; and (4) Backfill all exposed coal seams in the vicinity of the openings to a minimum of four (4) feet above the top of the coal seam. The petitioner asserts that the proposed alternative method will provide at least the same degree of safety as the existing standard.

Docket Number: M-2006-084-C.

Petitioner: The North American Coal Corporation, P.O. Box 399, Jourdanton, Texas 78026.

Mine: San Miguel Mine, (MSHA I.D. No. 41-02840), located in Atascosa County, Texas.

Regulation Affected: 30 CFR 77.803 (Fail safe ground check circuits on high-voltage resistance grounded systems).

Modification Request: The petitioner requests a modification of the existing standard for raising and lowering the boom/mast during disassembly or major maintenance. The petitioner states that during the boom raising and boom lowering period of construction and maintenance, the machine will not be performing mining operations and major maintenance requiring the raising/lowering of the boom/mast would only be performed on an as needed basis. All persons involved in the boom raising/lowering process would be trained and retrained prior to using the procedure. The petitioner asserts that application of the proposed alternative method will not result in a diminution of safety to the miners.

Docket Number: M-2006-013-M.

Petitioner: Vulcan Construction Materials, LP, 3001 Alcoa Highway, Knoxville, Tennessee 37920.

Mine: Richmond Road Underground Mine, (MSHA I.D. No. 15-00107), located in Fayette County, Kentucky.

Regulation Affected: 30 CFR 49.2 (Availability of mine rescue teams).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of the Eastwood Fire District Firefighting and Rescue Teams as their mine rescue provider. The petitioner states that: (1) The rescue teams are located in Eastwood, Kentucky within the required time limit to the mine and have the required MSHA training; (2) the team members have had extensive training in firefighting, evacuation, and rescue; (3) the teams have had underground training and are familiar with the mines for which they will supply mine rescue services; and (4) the teams will have more rescue training than 30 CFR 49.8 requires and will train underground with apparatus at each of the mines where they will provide service. The petitioner asserts that the proposed alternative method of achieving the result of the standard will at all times guarantee no less than the same measure of protection afforded by the standard.

Docket Number: M-2006-014-M.

Petitioner: Vulcan Construction Materials, LP, 3001 Alcoa Highway, Knoxville, Tennessee 37920.

Mine: Central Underground Mine, (MSHA I.D. No. 15-00016), located in Fayette County, Kentucky.

Regulation Affected: 30 CFR 49.2 (Availability of mine rescue teams).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of the

Eastwood Fire District Firefighting and Rescue Teams as their mine rescue provider. The petitioner states that: (1) The rescue teams are located in Eastwood, Kentucky within the required time limit to the mine and have the required MSHA training; (2) the team members have had extensive training in firefighting, evacuation, and rescue; (3) the teams have had underground training and are familiar with the mines for which they will supply mine rescue services; and (4) the teams will have more rescue training than 30 CFR 49.8 requires and will train underground with apparatus at each of the mines where they will provide service. The petitioner asserts that the proposed alternative method of achieving the result of the standard will at all times guarantee no less than the same measure of protection afforded by the standard.

Docket Number: M-2006-015-M.

Petitioner: Rogers Group, Inc., 2182 West Industrial Park Drive, Bloomington, Indiana 47404.

Mine: Jefferson County Stone Underground Mine, (MSHA I.D. No. 15-18157), located in Jefferson County, Kentucky.

Regulation Affected: 30 CFR 49.2 (Availability of mine rescue teams).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of the Eastwood Fire District Firefighting and Rescue Teams as their mine rescue provider. The petitioner states that: (1) The rescue teams are located in Eastwood, Kentucky within the required time limit to the mine and have the required MSHA training; (2) the team members have had extensive training in firefighting, evacuation, and rescue; (3) the teams have had underground training and are familiar with the mines for which they will supply mine rescue services; and (4) the teams will have more rescue training than 30 CFR 49.8 requires and will train underground with apparatus at each of the mines where they will provide service. The petitioner asserts that the proposed alternative method of achieving the result of the standard will at all times guarantee no less than the same measure of protection afforded by the standard.

Dated: February 16, 2007.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. E7-3120 Filed 2-22-07; 8:45 am]

BILLING CODE 4510-43-P

DEPARTMENT OF LABOR**Mine Safety and Health Administration****Petitions for Modification**

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: Comments on the petitions must be postmarked and received by the Office of Standards, Regulations, and Variances on or before March 26, 2007.

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *E-Mail:* Standards-Petitions@dol.gov.

2. *Telefax:* 1-202-693-9441.

3. *Hand-Delivery or Regular Mail:* Submit comments to the Mine Safety and Health Administration (MSHA), Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, *Attention:* Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.

We will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. If you submit your comments by hand-delivery, you are required to check in at the receptionist desk on the 21st floor.

Copies of the petitions and comments will be available during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Ria Moore Benedict, Deputy Director, Office of Standards, Regulations, and Variances at 202-693-9443 (Voice), benedict.ria@dol.gov (E-mail), or 202-693-9441 (Telefax), or you can contact Barbara Barron at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:**I. Background**

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine

Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that an alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard, or that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modifications.

II. Petitions for Modification

Docket Number: M-2006-085-C

Petitioner: Drummond Company, Inc., P.O. Box 10246, Birmingham, Alabama 35202.

Mine: Shoal Creek Mine, (MSHA I.D. No. 01-02901), located in Jefferson County, Alabama.

Regulation Affected: 75.1101-1(b) (Deluge-type water spray systems).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of deluge-type water spray systems installed at belt conveyor drives in lieu of using blow off dust covers. The petitioner proposes to have a person who is trained in the testing procedure specific to the deluge-type water spray fire suppression systems conduct examinations and tests on a weekly basis as follows: (1) Conduct a visual examination of each of the deluge-type water spray fire suppression systems; (2) conduct a functional test of the deluge-type water spray fire suppression system and observe its performance; and (3) record the results of the examination and test in a book maintained on the surface which would be retained and made available to the authorized representative of the Secretary. The petitioner states that if any malfunction or clogged nozzle is detected as a result of the weekly examination or functional test, corrections will be made. The petitioner further states that within 60 days of the final order, a revised 30 CFR Part 48 training plan will be submitted to the District Manager that includes initial and refresher training to comply with the order. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners at the Shoal Creek Mine as would be provided by the mandatory safety standards and will satisfy the criteria of the standard.

Docket Number: M-2006-086-C

Petitioner: Mystic, LLC, P.O. Box 228, Stanaford, West Virginia 25927.

Mine: Candice 2 Mine, (MSHA I.D. No. 46-08429), located in Boone County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit plugging of all oil and gas wells encountered during normal operations. The petitioner requests MSHA's approval of this modification for all oil and gas wells it intends to plug in the Candice 2 Mine. The petitioner states that in lieu of establishing and maintaining barriers around oil and gas wells, the Lower Winifrede coal seam will be sealed from surrounding strata at the wells to be plugged. The petitioner proposes the following techniques: (1) Cleaning out and preparing oil and gas wells; (2) plugging oil and gas wells to the surface; (3) plugging oil and gas wells using the vent pipe method; and (4) plugging oil and gas wells for use as degasification boreholes. Persons may review a complete description of petitioner's alternative methods and procedures at the MSHA address listed in the notice. The petitioner asserts that the proposed alternative method will provide the same degree of safety as the existing standard.

Docket Number: M-2006-087-C

Petitioner: Energy West Mining Company, P.O. Box 310, Huntington, Utah 84528.

Mine: Deer Creek Mine, (MSHA I.D. No. 42-00121), located in Emery County, Utah, and Bridger Underground Coal Mine, (MSHA I.D. No. 48-01646), located in Sweetwater County, Wyoming.

Regulation Affected: 30 CFR 75.1909(b) (Non-permissible diesel-powered equipment; design and performance requirements).

Modification Request: The petitioner requests that its previously granted petition for modification, docket number M-1999-108-C be amended to permit the purchase of another grader for the Deer Creek Mine with the potential to use the grader at the Bridger Underground Coal Mine. The petitioner would like to: (1) Retain the previous petition with its current requirements; (2) add the new grader to the petition; and (3) delete the reference to the Trail Mountain Mine and replace it with the Bridger Underground Coal Mine. The petitioner states that with the addition of the new grader, the petition would read as follows: (1) The Proposed Decision and Order (PDO) is limited in application to the Getman Model No.

G600U and Getman RDG-1504C diesel graders used at the Deer Creek Mine and the Bridger Underground Coal Mine; (2) The maximum speed on the Getman Model No. G600U and Getman RDG-1504C will be limited to 10 mph by: (a) Permanently blocking out the gear(s) or any gear ratio(s) that provide higher speeds. The device shall limit the vehicle speed in both forward and reverse; (b) using transmission(s) and differential(s) geared in accordance with the equipment manufacturer which limits the maximum speed to 10 mph. The petitioner further proposes the following prior to implementing the alternative method: (1) The Getman Model RDG-1504C diesel grader would be inspected by MSHA to determine compliance with the terms and conditions of the PDO; (2) grader operators would be trained to recognize appropriate levels of speed for different road conditions and slopes; (3) grader operators would be trained to lower the moldboard (grader blade) to provide additional stopping capability in emergencies; and (4) grader operators would be trained to recognize the transmission gear blocking device and its proper application and requirements, and will comply with all other applicable requirements of the Federal Mine Safety and Health Act of 1977 and the applicable requirements of 30 CFR Parts 75 and 77. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Docket Number: M-2006-088-C

Petitioner: Cumberland River Coal Company, Pardee Complex, P.O. Drawer 109, Appalachia, Virginia 24216.

Mine: Band Mill Mine, (MSHA I.D. No. 44-06816), located in Wise County, Virginia.

Regulation Affected: 30 CFR 75.364(b)(1) (Weekly examination).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of three monitoring locations to check and measure air flow through certain sections of the mine due to deteriorating roof conditions. The petitioner proposes to establish monitoring locations (ML 61, 62, and 63) to check and measure air flow through the 450 feet portion of 1 North Submain. Additionally, two monitoring stations would be established (ML 64 and 65) in the faces of 4 Left Panel and 3 West Submain. The petitioner states that future plans would include having a production unit back in both these areas. The petitioner proposes to maintain 2,000 cfm through each of the ML's. Persons may review a

complete description of petitioner's alternative method at the MSHA address listed in this notice.

Docket Number: M-2006-089-C

Petitioner: The Ohio Valley Coal Company, 56854 Pleasant Ridge Road, Alledonia, Ohio 43902.

Mine: Powhatan No. 6 Mine, (MSHA I.D. No. 33-01159), located in Monroe County, Ohio.

Regulation Affected: 30 CFR 75.507 (Power connection points).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of low and medium voltage, three-phase, alternating-current submersible pump(s) installed in return and bleeder entries, ventilation shafts, and boreholes in the Powhatan No. 6 Mine. The petitioner further states that protection will be provided by a suitable circuit interrupting device to protect against under-voltage, grounded phase, short-circuit and overload. Persons may review a complete description of petitioner's alternative method at the MSHA address listed in this notice. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Docket Number: M-2006-016-M

Petitioner: Phelps Dodge Morenci, Inc., 4521 U.S. Highway 191, Morenci, Arizona 85540.

Mine: Morenci Mine, (MSHA I.D. No. 02-00024), located in Greenlee County, Arizona.

Regulation Affected: 30 CFR 56.6309(b) (Fuel oil requirements for ANFO).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of used petroleum-based, lubrication oil from diesel equipment at the Bagdad Mine for blending with diesel fuel and conventional prills to create ammonium nitrate-fuel oil (ANFO). Persons may review a complete description of petitioner's alternative method at the MSHA address listed in this notice. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Dated: February 16, 2007.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. E7-3121 Filed 2-22-07; 8:45 am]

BILLING CODE 4510-43-P

MISSISSIPPI RIVER COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS:

Mississippi River Commission.

TIME AND DATE: 9 a.m., April 16, 2007.

PLACE: On board MISSISSIPPI V at City Front, Caruthersville, MO.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1)

Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., April 17, 2007.

PLACE: On board MISSISSIPPI V at Mud Island, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1)

Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 1 p.m., April 19, 2007.

PLACE: On board MISSISSIPPI V at Fulton Street Landing, Natchez, MS.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1)

Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Vicksburg District, and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., April 20, 2007.

PLACE: On board MISSISSIPPI V at City Dock, Baton Rouge, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the New Orleans District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or of the Commission and the Corps of Engineers.

CONTACT PERSON FOR MORE INFORMATION: Mr. Stephen Gambrell, telephone 601-634-5766.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 07-849 Filed 2-21-07; 11:54 am]

BILLING CODE 3710-GX-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that two meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference from the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506 as follows (ending time is approximate):

AccessAbility (application review): March 5, 2007. This meeting, from 2 p.m. to 3 p.m. eastern standard time, will be closed.

Arts Education (application review): March 5, 2007. This meeting, from 4 p.m. to 5 p.m. eastern standard time, will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of April 8, 2005, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682-5691.

Dated: February 16, 2007.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. E7-3054 Filed 2-22-07; 8:45 am]

BILLING CODE 7537-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference from the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 as follows (ending time is approximate):

Folk & Traditional Arts (application review): March 5, 2007. This meeting, from 2 p.m. to 3 p.m. eastern standard time, will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of April 8, 2005, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5691.

Dated: February 20, 2007.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. E7-3200 Filed 2-22-07; 8:45 am]

BILLING CODE 7537-01-P

NATIONAL SCIENCE FOUNDATION

Astronomy and Astrophysics Advisory Committee #13883; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following Astronomy and Astrophysics Advisory Committee (#13883) meeting:

Date and Time: March 9, 2007 1:45—3:30 p.m. EST.

Place: Teleconference. National Science Foundation, Room 1045, Stafford I Building, 4121 Wilson Blvd., Arlington, VA, 22230.

Type of Meeting: Open.

Contact Person: Dr. G. Wayne Van Citters, Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703-292-4908.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the agencies.

Agenda: To discuss the Committee's draft annual report due 15 March 2007.

Dated: February 16, 2007.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. E7-3059 Filed 2-22-07; 8:45 am]

BILLING CODE 7555-01-P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Investigation of Claim for Possible Days of Employment; OMB 3220-0196. Under Section 1(k) of the Railroad Unemployment Insurance Act (RUIA), unemployment and sickness benefits are not payable for any day with respect to which remuneration is payable or accrues to the claimant. Also Section 4(a-1) of the RUIA provides that unemployment or sickness benefits are not payable for any day the claimant receives the same benefits under any law other than the RUIA. Under Railroad Retirement Board (RRB) regulations, 20 CFR 322.4(a), a

claimant's certification or statement on an RRB provided claim form that he or she did not work on any day claimed and did not receive income such as vacation pay or pay for time lost shall constitute sufficient evidence unless there is conflicting evidence. Further, under 20 CFR 322.4(b), when there is a question raised as to whether or not remuneration is payable or has accrued to a claimant with respect to a claimed day or days, investigation shall be made with a view to obtaining information sufficient for a finding.

Form ID-5S(SUP), Report of Cases for Which All Days Were Claimed During a Month Credited Per an Adjustment Report, collects required information about compensation credited to an employee during a period when the employee claimed either unemployment or sickness benefits from a railroad employer. The request is generated as a result of a computer match that compares data which is maintained in the RRB's RUIA Benefit Payment file with data maintained in the RRB's records of service. The ID-5S(SUP) is generated annually when the computer match indicates that an employee(s) of the railroad employer was paid unemployment or sickness benefits for every day in one or more months for which creditable compensation was adjusted due to the receipt of a report of creditable compensation adjustment (RRB FORM BA-4, OMB Approved 3220-0008) from their railroad employer.

The computer generated Form ID-5S(SUP) includes pertinent identifying information, the BA-4 adjustment process date and the claimed months in question. Space is provided on the report for the employer's use in supplying the information requested in the computer generated transmittal letter, Form ID-5S, which accompanies the report. To our knowledge no other agency uses forms similar to Form ID-5S(SUP). Completion is voluntary. One response is requested of each respondent. The RRB estimates that 80 responses are received annually. The RRB proposes non-burden impacting editorial changes to Form ID-5S(SUP) and Form ID-5S.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751-3363 or send an e-mail request to Charles.Mierzwa@RRB.GOV. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois

60611-2092 or send an e-mail to Ronald.Hodapp@RRB.GOV. Written comments should be received within 60 days of this notice.

Charles Mierzwa,
Clearance Officer.

[FR Doc. E7-3039 Filed 2-22-07; 8:45 am]
BILLING CODE 7905-01-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 15c3-1f, SEC File No. 270-440, OMB Control No. 3235-0496.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for approval of extension on the following rule: 17 CFR 240.15c3-1f (Appendix F to Rule 15c3-1 ("Appendix F")).

Appendix F requires a broker-dealer choosing to register, upon Commission approval, as an OTC derivative dealer to develop and maintain an internal risk management system based on Value-at-Risk ("VAR") models. Appendix F also requires the OTC derivatives dealer to notify Commission staff of the system and of certain other periodic information including when the VAR model deviates from the actual performance of the OTC derivatives dealer's portfolio. It is anticipated that five (5) broker-dealers will spend 1,000 hours per year complying with Appendix F. The total burden is estimated to be approximately 5,000 hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted

in writing within 60 days of this publication.

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, VA 22312 or send an e-mail to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 60 days of this notice.

Dated: February 14, 2007.

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E7-3027 Filed 2-22-07; 8:45 am]
BILLING CODE 8010-01-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: Form N-3; SEC File No. 270-281; OMB Control No. 3235-0316.

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 (the "Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

The title for the collection of information is "Form N-3 (17 CFR 239.17a and 274.11b) under the Securities Act of 1933 and under the Investment Company Act of 1940, Registration Statement of Separate Accounts Organized as Management Investment Companies." Form N-3 is the form used by insurance company separate accounts organized as management investment companies that offer variable annuity contracts to register as investment companies under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) ("Investment Company Act") and/or to register their securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("Securities Act"). The primary purpose of the registration process is to provide disclosure of financial and other information to investors and potential investors for the purpose of evaluating an investment in a security. Form N-3 also permits separate accounts

organized as management investment companies that offer annuity contracts to provide investors with a prospectus containing information required in a registration statement prior to the sale or at the time of confirmation of delivery of securities. The form also may be used by the Commission in its regulatory review, inspection, and policy-making roles.

The Commission estimates that there are 2 initial registration statements and 30 post-effective amendments to initial registration statements filed on Form N-3 annually and that the average number of portfolios referenced in each initial filing and post-effective amendment is 2. The Commission further estimates that the hour burden for preparing and filing a post-effective amendment on Form N-3 is 154.7 hours per portfolio. The total annual hour burden for preparing and filing post-effective amendments is 9,282 hours (30 post-effective amendments × 2 portfolios × 154.7 hours per portfolio). The estimated annual hour burden for preparing and filing initial registration statements is 3,690.8 hours (2 initial registration statements × 2 portfolios × 922.7 hours per portfolio). The total annual hour burden for Form N-3, therefore, is estimated to be 12,972.8 hours (9,282 hours + 3,690.8 hours).

The information collection requirements imposed by Form N-3 are mandatory. Responses to the collection of information will not be 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.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. 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.

February 14, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7-3092 Filed 2-22-07; 8:45 am]

BILLING CODE 8010-01-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 20549-0004.

Extension: Form 1-E, Regulation E; SEC File No. 270-221; OMB Control No. 3235-0232.

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 (the "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 1-E (17 CFR 239.200) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("Securities Act") is the form that a small business investment company ("SBIC") or business development company ("BDC") uses to notify the Commission that it is claiming an exemption under Regulation E from registering its securities under the Securities Act. Rule 605 of Regulation E (17 CFR 230.605) under the Securities Act requires an SBIC or BDC claiming such an exemption to file an offering circular with the Commission that must also be provided to persons to whom an offer is made. Form 1-E requires an issuer to provide the names and addresses of the issuer, its affiliates, directors, officers, and counsel; a description of events which would make the exemption unavailable; the jurisdiction in which the issuer intends to offer its securities; information about unregistered securities issued or sold by the issuer within one year before filing the notification on Form 1-E; information as to whether the issuer is presently offering or contemplating offering any other securities; and exhibits, including copies of the rule 605 offering circular and any underwriting contracts.

The Commission uses the information provided in the notification on Form 1-E and the offering circular to determine whether an offering qualifies for the exemption under Regulation E. It is estimated that approximately ten issuers file notifications, together with attached

offering circulars, on Form 1-E with the Commission annually. The Commission estimates that the total burden hours for preparing these notifications would be 1,000 hours in the aggregate. Estimates of the burden hours are made solely for the purposes of the PRA, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

Compliance with the information collection requirements of the rules is necessary to obtain the benefit of relying on the rules. The information provided on Form 1-E and in the offering circular will not be 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 OMB 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 email 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 16, 2007.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E7-3097 Filed 2-22-07; 8:45 am]

BILLING CODE 8010-01-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: Rule 17f-6; SEC File No. 270-392; OMB Control No. 3235-0447.

Notice is hereby given that, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the

previously approved collection of information discussed below.

Rule 17f-6 (17 CFR 270.17f-6) under the Investment Company Act of 1940 (15 U.S.C. 80a) permits registered investment companies ("funds") to maintain assets (*i.e.*, margin) with futures commission merchants ("FCMs") in connection with commodity transactions effected on both domestic and foreign exchanges. Before the rule was adopted, funds generally were required to maintain such assets in special accounts with a custodian bank.¹

The rule requires a written contract that contains certain provisions designed to ensure important safeguards and other benefits relating to the custody of fund assets by FCMs. To protect fund assets, the contract must require that FCMs comply with the segregation or secured amount requirements of the Commodity Exchange Act ("CEA") and the rules under that statute. The contract also must contain a requirement that FCMs obtain an acknowledgment from any clearing organization that the fund's assets are held on behalf of the FCM's customers according to CEA provisions. Finally, FCMs are required to furnish to the Commission or its staff on request information concerning the fund's assets in order to facilitate Commission inspections.

The Commission estimates that approximately 2,275 funds effect commodities transactions and could deposit margin with FCMs under Rule 17f-6 in connection with those transactions. Commission staff estimates that each fund uses and deposits margin with two different FCMs in connection with its commodity transactions.²

The Commission estimates that each of the 2,275 funds spends an average of 1 hour annually complying with the contract requirements of the rule (*i.e.*, executing contracts that contain the requisite provisions with additional FCMs), for a total of 2,275 burden hours. The estimate does not include the time required by an FCM to comply with the rule's contract requirements because, to the extent that complying with the contract provisions could be considered "collections of information," the burden hours for compliance are already included in other PRA submissions or

are *de minimis*.³ The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule. If an FCM furnishes records pertaining to a fund's assets at the request of the Commission or its staff, the records will be kept confidential to the extent permitted by relevant statutory or regulatory provisions. The rule does not require these records be retained for any specific period of time. 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.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, 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 email to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

February 15, 2007.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E7-3098 Filed 2-22-07; 8:45 am]

BILLING CODE 8010-01-P

³ The rule requires a contract with the FCM to contain three provisions. Two of the provisions require the FCM to comply with existing requirements under the CEA and rules adopted under that Act. Thus, to the extent these provisions could be considered collections of information, the hours required for compliance would be included in the collection of information burden hours submitted by the Commodity Futures Trading Commission for its rules. The third contract provision requires that the FCM produce records or other information requested by the Commission or its staff. Commission staff has requested this type of information from an FCM so infrequently in the past that the annual burden hours are *de minimis*.

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-27701; File No. 812-13272]

Wilshire Variable Insurance Trust, et al.; Notice of Application

February 16, 2007.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an exemption pursuant to Section 6(c) of the Investment Company Act of 1940, as amended (the "1940 Act") from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder.

APPLICANTS: Wilshire Variable Insurance Trust (the "Trust") and Wilshire Associates Incorporated ("Wilshire" and together with the Trust, "Applicants").

SUMMARY OF APPLICATION: Applicants seek an order exempting them from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder, to the extent necessary to permit shares of the Trust and shares of any other investment company or portfolio that is designed to fund insurance products and for which Wilshire or any of its affiliates may serve in the future as investment adviser, manager, principal underwriter, sponsor, or administrator ("Future Trusts") (the Trust, together with Future Trusts, the "Trusts") to be sold to and held by: (a) Separate accounts funding variable annuity and variable life insurance contracts (collectively the "Variable Contracts") issued by both affiliated and unaffiliated life insurance companies; (b) trustees of qualified group pension and group retirement plans ("Qualified Plans") outside of the separate account context; (c) separate accounts that are not registered as investment companies under the 1940 Act pursuant to exemptions from registration under Section 3(c) of the 1940 Act; (d) Wilshire and any affiliate of Wilshire that serves as an investment adviser, manager, principal underwriter, sponsor or administrator for the purpose of providing seed capital (collectively, "Wilshire Entities"); (e) any other insurance company general accounts permitted to hold shares of the Trusts pursuant to Treasury Regulation Section 1.817-5 ("General Accounts").

FILING DATE: The application was filed on April 4, 2006 and amended on November 1, 2006.

HEARING OR NOTIFICATION OF HEARING:

An order granting the application will be issued unless the Commission orders

¹ Custody of Investment Company Assets With Futures Commission Merchants and Commodity Clearing Organizations, Investment Company Act Release No. 22389 (Dec. 11, 1996) (61 FR 66207 (Dec. 17, 1996)).

² This estimate is based on information conversations with representatives of the fund industry.

a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 14, 2007, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should State the nature of the requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 100 F Street, NE., Washington, DC 20549-1090. Applicants, Lawrence E. Davanzo, c/o Wilshire Associates Incorporated, 1299 Ocean Avenue, Suite 700, Santa Monica, California 90401.

FOR FURTHER INFORMATION CONTACT: Sally Samuel, Senior Counsel, or Joyce M. Pickholz, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 551-6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 100 F Street, NE., Washington, DC 20549 (tel. (202) 551-8090).

Applicants' Representations

1. The Trust is registered with the Commission as an open-end management investment company and is organized as a Delaware statutory trust. Wilshire, a California corporation, is registered with the Commission as an investment adviser under the Investment Advisers Act of 1940, as amended, and serves as the investment adviser to the Trust. The Trust currently consists of, and offers shares of beneficial interest ("shares") representing interests in, fourteen separate investment portfolios (each, a "Portfolio," and collectively, the "Portfolios"). The Trust or any Future Trusts may offer one or more additional investment portfolios in the future (also referred to as "Portfolios").

2. Shares of the Portfolios will be offered to separate accounts of affiliated and unaffiliated insurance companies (each, a "Participating Insurance Company") as investment vehicles to fund Variable Contracts. These separate accounts will be registered as investment companies under the 1940 Act or will be exempt from such registration (individually, a "Separate

Account" and collectively, the "Separate Accounts"). Shares of the Portfolios may also be offered to Qualified Plans, Wilshire Entities and General Accounts.

3. The Participating Insurance Companies at the time of their investment in the Trusts either have established or will establish their own Separate Accounts and have designed or will design their own Variable Contracts. Each Participating Insurance Company has or will have the legal obligation of satisfying all applicable requirements under both State and Federal law. Each Participating Insurance Company, on behalf of its Separate Accounts, has entered or will enter into an agreement with the Trusts concerning such Participating Insurance Company's participation in the Portfolios. The role of the Trusts under this agreement, insofar as the Federal securities laws are applicable, will consist of, among other things, offering shares of the Portfolios to the participating Separate Accounts and complying with any conditions that the Commission may impose upon granting the order requested herein.

Applicants' Legal Analysis

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered as a unit investment trust ("UIT") under the 1940 Act, Rule 6e-2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. Section 9(a)(2) of the 1940 Act makes it unlawful for any company to serve as an investment adviser or principal underwriter of any UIT, if an affiliated person of that company is subject to a disqualification enumerated in Sections 9(a)(1) or (2) of the 1940 Act. Sections 13(a), 15(a) and 15(b) of the 1940 Act have been deemed by the Commission to require "pass-through" voting with respect to an underlying investment company's shares. Rule 6e-2(b)(15) provides that these exemptions apply only where all of the assets of the UIT are shares of management investment companies "which offer their shares exclusively to variable life insurance separate accounts of the life insurer or of any affiliated life insurance company." Therefore, the relief granted by Rule 6e-2(b)(15) is not available with respect to a scheduled premium life insurance separate account that owns shares of an underlying fund that also offers its shares to a variable annuity separate account or flexible premium variable life insurance separate account of the same company or any other affiliated insurance company. The use

of a common management investment company as the underlying investment vehicle for both variable annuity and variable life insurance separate accounts of the same life insurance company or of any affiliated life insurance company is referred to herein as "mixed funding."

2. The relief granted by Rule 6e-2(b)(15) also is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to separate accounts funding Variable Contracts of one or more unaffiliated life insurance companies. The use of a common management investment company as the underlying investment vehicle for variable annuity and/or variable life insurance separate accounts of unaffiliated life insurance companies is referred to herein as "shared funding."

3. The relief under Rule 6e-2(b)(15) is available only where shares are offered exclusively to variable life insurance separate accounts of a life insurer or any affiliated life insurance company, additional exemptive relief is necessary if the shares of the Portfolios are also to be sold to Qualified Plans or other eligible holders of shares, as described above. Applicants note that if shares of the Portfolios are sold only to Qualified Plans, exemptive relief under Rule 6e-2 would not be necessary. The relief provided for under this section does not relate to Qualified Plans or to a registered investment company's ability to sell its shares to Qualified Plans. The use of a common management investment company as the underlying investment vehicle for variable annuity and variable life separate accounts of affiliated and unaffiliated insurance companies, and for Qualified Plans, is referred to herein as "extended mixed and shared funding."

4. In connection with flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a UIT, Rule 6e-3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The exemptions granted by Rule 6e-3(T)(b)(15) are available only where all the assets of the separate account consist of the shares of one or more registered management investment companies that offer to sell their shares "exclusively to separate accounts of the life insurer, or of any affiliated life insurance companies, offering either scheduled contracts or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company or

which offer their shares to any such life insurance company in consideration solely for advances made by the life insurer in connection with the operation of the separate account." Therefore, Rule 6e-3(T)(b)(15) permits mixed funding but does not permit shared funding.

5. The relief under Rule 6e-3(T) is available only where shares are offered exclusively to variable life insurance separate accounts of a life insurer or any affiliated life insurance company, and additional exemptive relief is necessary if the shares of the Portfolios are also to be sold to Qualified Plans or other eligible holders of shares as described above. Applicants note that if shares of the Portfolios were sold only to Qualified Plans, exemptive relief under Rule 6e-3(T)(b)(15) would not be necessary. The relief provided for under this section does not relate to Qualified Plans or to a registered investment company's ability to sell its shares to Qualified Plans.

6. Applicants maintain, as discussed below, that there is no policy reason for the sale of the Portfolios' shares to Qualified Plans, to Wilshire Entities, or General Accounts to result in a prohibition against, or otherwise limit, a Participating Insurance Company from relying on the relief provided by Rules 6e-2(b)(15) and 6e-3(T)(b)(15). However, because the relief under Rules 6e-2(b)(15) and 6e-3(T)(b)(15) is available only when shares are offered exclusively to separate accounts, additional exemptive relief may be necessary if the shares of the Portfolios are also to be sold to Qualified Plans, Wilshire Entities, or General Accounts. Applicants therefore request relief in order to have the Participating Insurance Companies enjoy the benefits of the relief granted in Rules 6e-2(b)(15) and 6e-3(T)(b)(15). Applicants note that if the Portfolios' shares were to be sold only to Qualified Plans, Wilshire Entities, or General Accounts and/or separate accounts funding variable annuity contracts, exemptive relief under Rule 6e-2 and Rule 6e-3(T) would be unnecessary. The relief provided for under Rules 6e-2(b)(15) and 6e-3(T)(b)(15) does not relate to Qualified Plans, Wilshire Entities, or General Accounts, or to a registered investment company's ability to sell its shares to such purchasers.

7. Section 9(a)(3) of the 1940 Act provides that it is unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Sections 9(a)(1) or (2).

Rules 6e-2(b)(15)(i) and (ii) and Rules 6e-3(T)(b)(15)(i) and (ii) under the 1940 Act provide exemptions from Section 9(a) under certain circumstances, subject to the limitations discussed above on mixed and shared funding. These exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in management of the underlying management company.

8. The partial relief granted in Rules 6e-2(b)(15) and 6e-3(T)(b)(15) under the 1940 Act from the requirements of Section 9 of the 1940 Act recognizes that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to individuals in a large insurance company complex, most of whom will have no involvement in matters pertaining to investment companies in that organization. The Participating Insurance Companies and Qualified Plans are not expected to play any role in the management of the Trusts. Those individuals who participate in the management of the Trusts will remain the same regardless of which Separate Accounts or Qualified Plans invest in the Trusts. Applying the monitoring requirements of Section 9(a) of the 1940 Act because of investment by separate accounts of other insurers or Qualified Plans would be unjustified and would not serve any regulatory purpose.

9. Rules 6e-2(b)(15)(iii) and 6e-3(T)(b)(15)(iii) under the 1940 Act provide exemptions from the pass-through voting requirement with respect to several significant matters, assuming the limitations on mixed and shared funding are observed. Rules 6e-2(b)(15)(iii)(A) and 6e-3(T)(b)(15)(iii)(A)(1) provide that the insurance company may disregard the voting instructions of its contract owners with respect to the investments of an underlying fund, or any contract between such a fund and its investment adviser, when required to do so by an insurance regulatory authority (subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of Rules 6e-2 and 6e-3(T), respectively, under the 1940 Act). Rules 6e-2(b)(15)(iii)(B) and 6e-3(T)(b)(15)(iii)(A)(2) provide that the insurance company may disregard the voting instructions of its contract owners if the contract owners initiate any change in an underlying fund's investment policies, principal underwriter, or any investment adviser (provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraphs (b)(5)(ii), (b)(7)(ii)(B), and (b)(7)(ii)(C),

respectively, of Rules 6e-2 and 6e-3(T) under the 1940 Act).

10. Rule 6e-2 under the 1940 Act recognizes that a variable life insurance contract, as an insurance contract, has important elements unique to insurance contracts and is subject to extensive State regulation of insurance. In adopting Rule 6e-2(b)(15)(iii), the Commission expressly recognized that State insurance regulators have authority, pursuant to State insurance laws or regulations, to disapprove or require changes in investment policies, investment advisers, or principal underwriters. The Commission also expressly recognized that State insurance regulators have authority to require an insurer to draw from its general account to cover costs imposed upon the insurer by a change approved by contract owners over the insurer's objection. The Commission, therefore, deemed such exemptions necessary to assure the life insurer's solvency and performance of its contractual obligations by enabling an insurance regulatory authority or the life insurer to act when certain proposals reasonably could be expected to increase the risks undertaken by the life insurer. In this respect, flexible premium variable life insurance contracts are identical to scheduled premium variable life insurance contracts. Therefore, the corresponding provisions of Rule 6e-3(T) under the 1940 Act undoubtedly were adopted in recognition of the same factors.

11. The sale of Portfolio shares to Qualified Plans, Wilshire Entities, and General Accounts will not have any impact on the relief requested herein. With respect to the Qualified Plans, which are not registered as investment companies under the 1940 Act, there is no requirement to pass through voting rights to Qualified Plan participants. Indeed, to the contrary, applicable law expressly reserves voting rights associated with Qualified Plan assets to certain specified persons. Under Section 403(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), shares of a portfolio of a fund sold to a Qualified Plan must be held by the trustees of the Qualified Plan. Section 403(a) also provides that the trustee(s) must have exclusive authority and discretion to manage and control the Qualified Plan with two exceptions: (i) When the Qualified Plan expressly provides that the trustee(s) are subject to the direction of a named fiduciary who is not a trustee, in which case the trustees are subject to proper directions made in accordance with the terms of the Qualified Plan and not contrary to

ERISA, and (ii) when the authority to manage, acquire, or dispose of assets of the Qualified Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the above two exceptions stated in Section 403(a) applies, Qualified Plan trustees have the exclusive authority and responsibility for voting proxies.

12. Where a named fiduciary to a Qualified Plan appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. The Qualified Plans may have their trustee(s) or other fiduciaries exercise voting rights attributable to investment securities held by the Qualified Plans in their discretion. Some of the Qualified Plans, however, may provide for the trustee(s), an investment adviser (or advisers), or another named fiduciary to exercise voting rights in accordance with instructions from participants. Similarly, Wilshire Entities and General Accounts are not subject to any pass-through voting requirements. Accordingly, unlike the case with insurance company separate accounts, the issue of resolution of material irreconcilable conflicts with respect to voting is not present with Qualified Plans, Wilshire Entities, or General Accounts.

13. Where a Qualified Plan does not provide participants with the right to give voting instructions, the trustee or named fiduciary has responsibility to vote the shares held by the Qualified Plan. In this circumstance, the trustee has a fiduciary duty to vote the shares in the best interest of the Qualified Plan participants. Accordingly, even if Wilshire or an affiliate of Wilshire were to serve in the capacity of trustee or named fiduciary with voting responsibilities, Wilshire or its affiliate would have a fiduciary duty to vote those shares in the best interest of the Qualified Plan participants.

14. In addition, even if a Qualified Plan were to hold a controlling interest in a Portfolio, Applicants do not believe that such control would disadvantage other investors in such Portfolio to any greater extent than is the case when any institutional shareholder holds a majority of the voting securities of any open-end management investment company. In this regard, Applicants submit that investment in a Portfolio by a Qualified Plan will not create any of the voting complications occasioned by mixed funding or shared funding. Unlike mixed funding or shared funding, Qualified Plan investor voting

rights cannot be frustrated by veto rights of insurers or State regulators.

15. Where a Qualified Plan provides participants with the right to give voting instructions, Applicants see no reason to believe that participants in Qualified Plans generally or those in a particular Qualified Plan, either as a single group or in combination with participants in other Qualified Plans, would vote in a manner that would disadvantage Variable Contract holders. The purchase of shares of Portfolios by Qualified Plans that provide voting rights does not present any complications not otherwise occasioned by mixed or shared funding.

16. Shared funding by unaffiliated insurance companies does not present any issues that do not already exist where a single insurance company is licensed to do business in several or all States. A particular State insurance regulatory body could require action that is inconsistent with the requirements of other States in which the insurance company offers its policies. The fact that different insurers may be domiciled in different States does not create a significantly different or enlarged problem.

17. Shared funding by unaffiliated insurers, in this respect, is no different than the use of the same investment company as the funding vehicle for affiliated insurers, which Rules 6e-2(b)(15) and 6e-3(T)(b)(15) under the 1940 Act permit. Affiliated insurers may be domiciled in different States and be subject to differing State law requirements. Affiliation does not reduce the potential, if any exists, for differences in State regulatory requirements. In any event, the conditions set forth below are designed to safeguard against, and provide procedures for resolving, any adverse effects that differences among State regulatory requirements may produce. If a particular State insurance regulator's decision conflicts with the majority of other State regulators, then the affected insurer will be required to withdraw its Separate Account's investment in the affected Trust. This requirement will be provided for in agreements that will be entered into by Participating Insurance Companies with respect to their participation in the relevant Portfolio.

18. Rules 6e-2(b)(15) and 6e-3(T)(b)(15) under the 1940 Act give the insurance company the right to disregard the voting instructions of the contract owners in certain circumstances. Affiliation does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter, or investment adviser

initiated by contract owners. The potential for disagreement is limited by the requirements in Rules 6e-2 and 6e-3(T) under the 1940 Act that the insurance company's disregard of voting instructions be reasonable and based on specific good-faith determinations.

19. A Participating Insurance Company's disregard of voting instructions, nevertheless, could conflict with the majority of contract owners' voting instructions. The Participating Insurance Company's action possibly could be different than the determination of all or some of the other insurers (including affiliated insurers) that the voting instructions of contract owners should prevail, and either could preclude a majority vote approving the change or could represent a minority view. If the Participating Insurance Company's judgment represents a minority position or would preclude a majority vote, then the Participating Insurance Company's may be required, at the affected Trust's election, to withdraw its Separate Account's investment in such Portfolio. No charge or penalty will be imposed as a result of such withdrawal. This requirement will be provided for in the agreements entered into with respect to participation by the Participating Insurance Companies in each Portfolio.

20. Each Portfolio will be managed to attempt to achieve the investment objective or objectives of such Portfolio, and not to favor or disfavor any particular Participating Insurance Company or type of insurance product. There is no reason to believe that different features of various types of contracts, including the "minimum death benefit" guarantee under certain variable life insurance contracts, will lead to different investment policies for different types of Variable Contracts. To the extent that the degree of risk may differ as between variable annuity contracts and variable life insurance policies, the different insurance charges imposed, in effect, adjust any such differences and equalize the insurers' exposure in either case.

21. Applicants do not believe that the sale of the shares of the Portfolios to Qualified Plans will increase the potential for material irreconcilable conflicts of interest between or among different types of investors. In particular, Applicants see very little potential for such conflicts beyond those which would otherwise exist between variable annuity and variable life insurance contract owners. Moreover, in considering the appropriateness of the requested relief, Applicants have analyzed the following issues to assure themselves that there

were either no conflicts of interest or that there existed the ability by the affected parties to resolve the issues without harm to the contract owners in the Separate Accounts or to the participants under the Qualified Plans.

22. Applicants considered whether there are any issues raised under the Internal Revenue Code of 1986, as amended, (the "Code"), the regulations issued by the Treasury Department (the "Regulations"), or the revenue rulings issued by the Internal Revenue Service (the "Revenue Rulings"), if Qualified Plans, variable annuity separate accounts, and variable life insurance separate accounts all invest in the same underlying fund. Section 817(h) of the Code imposes certain diversification standards on the underlying assets of Variable Contracts held in an underlying mutual fund. The Code provides that a Variable Contract shall not be treated as an annuity contract or life insurance, as applicable, for any period (and any subsequent period) for which the investments are not, in accordance with regulations prescribed by the Treasury Department, adequately diversified.

23. Regulations issued under Section 817(h) provide that, in order to meet the statutory diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. However, the Regulations contain certain exceptions to this requirement, one of which allows shares in an underlying mutual fund to be held by the trustees of a qualified pension or retirement plan without adversely affecting the ability of such shares also to be held by separate accounts of insurance companies in connection with their Variable Contracts. Thus, the Regulations specifically permit "qualified pension or retirement plans" and separate accounts to invest in the same underlying fund. For this reason, Applicants have concluded that neither the Code, nor Regulations, nor Revenue Rulings thereunder, present any inherent conflicts of interest if the Qualified Plans and Separate Accounts all invest in the same Portfolio.

24. Applicants note that while there are differences in the manner in which distributions from Variable Contracts and Qualified Plans are taxed, these differences will have no impact on the Trusts. When distributions are to be made, and a Separate Account or Qualified Plan is unable to net purchase payments to make the distributions, the Separate Account and Qualified Plan will redeem shares of the relevant Portfolio at their respective net asset

value in conformity with Rule 22c-1 under the 1940 Act (without the imposition of any sales charge) to provide proceeds to meet distribution needs. A Participating Insurance Company then will make distributions in accordance with the terms of its Variable Contract, and a Qualified Plan then will make distributions in accordance with the terms of the Qualified Plan.

25. In connection with any meeting of shareholders, the soliciting Trust will inform each shareholder, including each Separate Account, Qualified Plan, Wilshire Entities, and General Account, of information necessary for the meeting, including their respective share of ownership in the relevant Portfolio. Each Participating Insurance Company then will solicit voting instructions in accordance with Rules 6e-2 and 6e-3(T), as applicable, and its agreement with the Trusts concerning participation in the relevant Portfolio. Shares of a Portfolio that are held by Wilshire Entities and any General Account will be voted in the same proportion as all Variable Contract owners having voting rights with respect to that Portfolio. However, Wilshire Entities and any General Account will vote their shares in such other manner as the Commission may require. Shares held by Qualified Plans will be voted in accordance with applicable law. The voting rights provided to Qualified Plans with respect to shares of a Portfolio would be no different from the voting rights that are provided to Qualified Plans with respect to shares of funds sold to the general public. Furthermore, if a material irreconcilable conflict arises because of a Qualified Plan's decision to disregard Qualified Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Qualified Plan may be required, at the election of the affected Trust, to withdraw its investment in such Portfolio, and no charge or penalty will be imposed as a result of such withdrawal.

26. Applicants reviewed whether a "senior security," as such term is defined under Section 18(g) of the 1940 Act, is created with respect to any Variable Contract owner as opposed to a participant under a Qualified Plan, Wilshire Entities, or a General Account. Applicants concluded that the ability of the Trusts to sell shares of their Portfolios directly to Qualified Plans, Wilshire Entities, or a General Account does not create a senior security. "Senior security" is defined under Section 18(g) of the 1940 Act to include

"any stock of a class having priority over any other class as to distribution of assets or payment of dividends." As noted above, regardless of the rights and benefits of participants under Qualified Plans, or contract owners under Variable Contracts, the Qualified Plans, Wilshire Entities, General Accounts and the Separate Accounts only have rights with respect to their respective shares of the Portfolio. They only can redeem such shares at net asset value. No shareholder of a Portfolio has any preference over any other shareholder with respect to distribution of assets or payment of dividends.

Applicants' Conditions

Applicants and the Wilshire Entities agree that the order granting the requested relief shall be subject to the following conditions which shall apply to the Trust as well as any Future Trust that relies on the order:

1. A majority of the Board of Trustees (the "Board") of the Trust will consist of persons who are not "interested persons" of the Trust, as defined by Section 2(a)(19) of the 1940 Act, and the rules thereunder, and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any trustee or trustees, then the operation of this condition will be suspended: (a) For a period of 90 days if the vacancy or vacancies may be filled by the Board; (b) for a period of 150 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application or by future rule.

2. The Board will monitor the Trust for the existence of any material irreconcilable conflict between the interests of the contract owners of all Separate Accounts and participants of all Qualified Plans investing in such Trust, and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any State insurance regulatory authority; (b) a change in applicable Federal or State insurance tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of such Trust are being managed; (e) a difference in voting instructions given by variable annuity contract owners, variable life insurance

contract owners, and trustees of the Qualified Plans; (f) a decision by a Participating Insurance Company to disregard the voting instructions of contract owners; or (g) if applicable, a decision by a Qualified Plan to disregard the voting instructions of Qualified Plan participants.

3. Participating Insurance Companies (on their own behalf, as well as by virtue of any investment of general account assets in a Portfolio), Wilshire Entities, and any Qualified Plan that executes a participation agreement upon becoming an owner of 10 percent or more of the assets of any Portfolio (collectively, "Participants") will report any potential or existing conflicts to the Board. Participants will be responsible for assisting the Board in carrying out the Board's responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each Participating Insurance Company to inform the Board whenever contract owner voting instructions are disregarded, and, if pass-through voting is applicable, an obligation by each Qualified Plan to inform the Board whenever it has determined to disregard Qualified Plan participant voting instructions. The responsibility to report such information and conflicts, and to assist the Board, will be a contractual obligation of all Participating Insurance Companies under their participation agreements with the Trust, and these responsibilities will be carried out with a view only to the interests of the contract owners. The responsibility to report such information and conflicts, and to assist the Board, also will be contractual obligations of all Qualified Plans with participation agreements, and such agreements will provide that these responsibilities will be carried out with a view only to the interests of Qualified Plan participants.

4. If it is determined by a majority of the Board, or a majority of the disinterested trustees of the Board, that a material irreconcilable conflict exists, then the relevant Participant will, at its expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees), take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict, up to and including: (a) Withdrawing the assets allocable to some or all of the Separate Accounts from the relevant Portfolio and reinvesting such assets in a different investment vehicle including another Portfolio, or in the case of Participating Insurance Company Participants

submitting the question as to whether such segregation should be implemented to a vote of all affected contract owners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, annuity contract owners or life insurance contract owners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected contract owners the option of making such a change; (b) establishing a new registered management investment company or managed separate account; and (c) withdrawing the assets allocable to some or all of the Qualified Plans from the affected Portfolio or Participating Insurance Company and reinvesting those assets in a different investment medium. If a material irreconcilable conflict arises because of a decision by a Participating Insurance Company to disregard contract owner voting instructions, and that decision represents a minority position or would preclude a majority vote, then the insurer may be required, at the election of the Trust, to withdraw such insurer's Separate Account's investment in the Trust, and no charge or penalty will be imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Qualified Plan's decision to disregard Qualified Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Qualified Plan may be required, at the election of the Trust, to withdraw its investment in the Trust, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action will be a contractual obligation of all Participants under their agreements governing participation in the Trust, and these responsibilities will be carried out with a view only to the interests of contract owners and Qualified Plan participants.

For purposes of this Condition 4, a majority of the disinterested members of the Board will determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but, in no event will the Trust or Wilshire, as relevant, be required to establish a new funding vehicle for any Variable Contract. No Participating Insurance Company will be required by this Condition 4 to establish a new funding vehicle for any Variable Contract if any offer to do so has been declined by vote of a majority of the contract owners materially and

adversely affected by the material irreconcilable conflict. Further, no Qualified Plan will be required by this Condition 4 to establish a new funding vehicle for the Qualified Plan if: (a) A majority of the Qualified Plan participants materially and adversely affected by the irreconcilable material conflict vote to decline such offer, or (b) pursuant to documents governing the Qualified Plan, the Qualified Plan makes such decision without a Qualified Plan participant vote.

5. The Board's determination of the existence of a material irreconcilable conflict and its implications will be made known in writing promptly to all Participants.

6. As to Variable Contracts issued by Separate Accounts registered under the 1940 Act, Participating Insurance Companies will provide pass-through voting privileges to all Variable Contract owners as required by the 1940 Act as interpreted by the Commission. However, as to Variable Contracts issued by unregistered Separate Accounts, pass-through voting privileges will be extended to contract owners to the extent granted by the issuing insurance company. Accordingly, such Participants, where applicable, will vote shares of the applicable Portfolio held in their Separate Accounts in a manner consistent with voting instructions timely received from Variable Contract owners. Participating Insurance Companies will be responsible for assuring that each Separate Account investing in a Portfolio calculates voting privileges in a manner consistent with other Participants.

The obligation to calculate voting privileges as provided in this Application will be a contractual obligation of all Participating Insurance Companies under their agreement with the Trusts governing participation in a Portfolio. Each Participating Insurance Company will vote shares for which it has not received timely voting instructions, as well as shares it owns through its General Account or otherwise attributed to it, in the same proportion as it votes those shares for which it has received voting instructions. Each Qualified Plan will vote as required by applicable law and governing Qualified Plan documents.

7. As long as the 1940 Act requires pass-through voting privileges to be provided to variable contract owners, Wilshire Entities and any General Account will vote their respective shares of any Portfolio in the same proportion of all variable contract owners having voting rights with respect to that Portfolio; provided;

however, that any Wilshire Entity or any insurance company General Account shall vote its shares in such other manner as may be required by the Commission or its staff.

8. The Trust will comply with all provisions of the 1940 Act requiring voting by shareholders, which for these purposes, shall be the persons having a voting interest in the shares of the respective Portfolio, and, in particular, the Trust will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act (although the Trust is not one of the funds of the type described in the Section 16(c) of the 1940 Act), as well as with Section 16(a) of the 1940 Act and, if and when applicable, Section 16(b) of the 1940 Act. Further, the Trust will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of trustees and with whatever rules the Commission may promulgate with respect thereto.

9. The Trust will notify all Participants that Separate Account prospectus disclosure or Qualified Plan prospectuses or other Qualified Plan disclosure documents regarding potential risks of mixed and shared funding may be appropriate. The Trust will disclose in its prospectus that (a) Shares of the Trust may be offered to Separate Accounts of both variable annuity and variable life insurance contracts and, if applicable, to Qualified Plans; (b) due to differences in tax treatment and other considerations, the interests of various contract owners participating in the Trust and the interests of Qualified Plans investing in the Trust, if applicable, may conflict; and (c) the Trust's Board will monitor events in order to identify the existence of any material irreconcilable conflicts and to determine what action, if any, should be taken in response to any such conflict.

10. If and to the extent that Rule 6e-2 and Rule 6e-3(T) under the 1940 Act are amended, or proposed Rule 6e-3 under the 1940 Act is adopted, to provide exemptive relief from any provision of the 1940 Act, or the rules promulgated thereunder, with respect to mixed or shared funding, on terms and conditions materially different from any exemptions granted in the order requested in this Application, then the Trust and/or Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with Rules 6e-2 and 6e-3(T), or Rule 6e-3, as such rules are applicable.

11. The Participants, at least annually, will submit to the Board such reports, materials, or data as a Board reasonably may request so that the trustees of the Board may fully carry out the obligations imposed upon the Board by the conditions contained in this application. Such reports, materials, and data will be submitted more frequently if deemed appropriate by the Board. The obligations of the Participants to provide these reports, materials, and data to the Board, when it so reasonably requests, will be a contractual obligation of all Participants under their agreements governing participation in the Portfolios.

12. All reports of potential or existing conflicts received by the Board, and all Board action with regard to determining the existence of a conflict, notifying Participants of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

13. The Trust will not accept a purchase order from a Qualified Plan if such purchase would make the Qualified Plan shareholder an owner of 10 percent or more of the assets of such Portfolio unless such Qualified Plan executes an agreement with the Trust governing participation in such Portfolio that includes the conditions set forth herein to the extent applicable. A Qualified Plan or Qualified Plan participant will execute an application containing an acknowledgment of this condition at the time of its initial purchase of shares of any Portfolio.

14. A Portfolio will make its shares available under a Variable Contract and/or Qualified Plan at or about the same time as it accepts any seed capital from any Wilshire Entity or any General Account of a Participating Insurance Company.

Conclusions

Applicants submit, based on the grounds summarized above, that the exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E7-3068 Filed 2-22-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55308; File No. SR-CHX-2006-38]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Extend the Late Trading Session and To Permit Only the Execution of Cross Orders During That Session

February 15, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 22, 2006, the Chicago Stock Exchange, Inc. (the "CHX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CHX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules (i) To extend its late trading session until 4 p.m. and (ii) to provide that only cross orders may be executed during that session. The text of this proposed rule change is available on the Exchange's Web site at http://www.chx.com/rules/proposed_rules.htm, at the Exchange's principal office, and in 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 CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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

In the Exchange's new trading model, the Exchange conducts two trading

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

sessions. The first session—called the regular trading session—is held from 8:30 a.m. (Central Time) to 3 p.m. (Central Time).³ The second trading session—called the late trading session—is held from the end of the regular session until 3:30 p.m. (Central Time). The Exchange's Matching System begins accepting orders for the late trading session immediately after the closing of the regular trading session in a security.⁴

Through this proposal, the Exchange seeks to extend its late trading session by one-half hour, to 4 p.m. (Central Time), and to confirm that only cross orders may be executed during the late trading session. The slightly longer trading session is designed to allow CHX participants to trade for a full hour after the normal close of the regular trading session. The cross-orders-only rule simply confirms that CHX participants may only submit cross orders for execution during the late trading session.⁵ The Exchange believes that it is appropriate to limit the late trading session to cross orders for a variety of reasons—including the fact that doing so is consistent with the types of orders currently submitted by CHX participants during its current after-hours trading session.⁶ The Exchange also believes that this proposal is consistent with late trading sessions operated by other markets.⁷

³ The regular trading session for certain ETFs extends to 3:15 p.m. (Central Time).

⁴ See CHX Rules, Article 20, Rule 8(c)(3). All orders remaining in the Matching System at the end of the regular trading session are cancelled back to the firms that submitted them; firms must submit new orders if they seek to trade in the late trading session.

⁵ In connection with this change to allow only cross orders to be executed during the late trading session, the Exchange is proposing a change in its definition of "NBBO" to confirm that it applies only to protected quotes disseminated during regular trading hours. Without this change, a cross order in the late trading session technically would be required to be submitted at a price that is at or better than the NBBO during the late trading session (if markets are disseminating protected quotes), even though the trade-through provisions of Rule 611 of Regulation NMS do not apply during that session. See Article 20, Rule 4(b)(4) (defining a cross order as one that is equal to or better than the NBBO).

⁶ Under the rules relating to its soon-to-be-retired trading model, the Exchange's MAX® system is not available for trading in the post-primary trading session, which begins immediately after the end of the regular trading session. See Article XX, Rule 37, Interpretation and Policy .05. The Exchange's floor brokers can receive and execute orders during the post-primary trading session and often execute those orders as cross transactions.

⁷ Other markets have instituted trading sessions that occur after the end of regular trading and that involve the execution of cross transactions. See, e.g., Boston Stock Exchange Rules, Ch. IIC (Extended Hours Crossing Session), Section 4 (noting that "only matched orders are eligible for execution during the ETS"); New York Stock

2. Statutory Basis

Approval of the rule changes proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.⁸ In particular, the proposed changes are consistent with Section 6(b)(5) of the Act,⁹ because they would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest by permitting the Exchange to operate a late trading session during which only cross orders are eligible for execution.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Exchange 900 Series Rules ("Off-Hours Trading Facility Rules") including Rules 902 and 907 (describing different types of coupled orders that can be executed during the NYSE off-hours sessions)).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

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-CHX-2006-38 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-CHX-2006-38. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. 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-CHX-2006-38 and should be submitted on or before March 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7-3090 Filed 2-22-07; 8:45 am]

BILLING CODE 8010-01-P

¹⁰ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55306; File No. SR-DTC-2006-21]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fee in Connection With Its Offering of a Mechanism by Which It Collects and Passes-Through Fees Owed by Participants to American Depository Receipt Agents for Certain Issues

February 15, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 29, 2006, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by DTC. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act² and Rule 19b-4(f)(2)³ thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the rule change is to modify DTC's fee for offering the mechanism by which it collects and passes-through fees owed by participants to American Depository Receipt ("ADR") agents for certain issues.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.⁴

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Typically, an ADR agent is authorized under its agreement with the issuer to impose a custody fee on holders of the issue. A common practice for collection of this fee is for the ADR agent to subtract the amount of the fee from the gross dividend payable to the ADR holders. This practice is effectuated by DTC announcing to participants both the gross dividend rate and the net dividend rate after deduction of the ADR custody fee, and the ADR agent paying DTC the net dividend and DTC allocating the net dividend to participants. However, a number of ADR issues do not pay periodic dividends, which prevents the associated fees from being collected through the above-described mechanism.

Pursuant to discussions with industry representatives and in order to facilitate a more efficient ADR fee collection process, DTC recently introduced a mechanism by which it collects from participants and passes through to ADR agents custody fees for issues that do not pay periodic dividends as such fees are reported to DTC by the ADR agents.⁵ DTC discussed that proposal with three divisions of the Securities Industry Association ("SIA"), the Corporate Actions Division, Dividends Division, and Securities Operations Divisions ("SOD"). The SOD Regulatory and Clearance Committee prepared and sent to DTC a memorandum on DTC's proposal. The memorandum concluded that DTC should collect such fees through its normal monthly billing process.⁶

In order to cover costs incurred in collecting fees associated with ADR issues that do not pay periodic dividends, DTC currently retains a collection charge equal to three percent (3%) of the ADR agent fee amount collected from each participant up to a maximum of \$4,000 per CUSIP per participant position. DTC does not retain a fee if the computed collection charge is less than \$50.

Due to recently implemented processing improvements, DTC has determined that the costs incurred in providing the collection function have decreased. DTC is modifying the fee it

retains for this service by changing the frequency of the charge from one levied per CUSIP per participant position to one levied per CUSIP only. DTC is also changing the maximum amount collected from \$4,000 per CUSIP per participant position to \$10,000 per CUSIP. DTC projects that these changes will result in an overall reduction in the charges DTC retains for this service in an amount consistent with the overall reduction in the cost of offering the service. The modified fee became effective January 2, 2007.

DTC believes the proposed rule change is consistent with Section 17A of the Act,⁷ as amended, because it updates its fee schedule. As such, it provides for the equitable allocation of fees among its participants and aligns fees for services with the associated cost to deliver the service.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act⁸ and Rule 19b-4(f)(2)⁹ thereunder because the rule establishes a due, fee, or other charge. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

⁵ Securities Exchange Act Release No. 34-53970 (June 12, 2006), 71 FR 34974 (June 16, 2006) [File No. SR-DTC-2006-08].

⁶ Memorandum from Albert Howell, Chairman, Regulatory & Clearance Committee, Securities Operations Division, Securities Industry Association, to William Hodash, Managing Director, The Depository Trust and Clearing Company (March 7, 2006).

⁷ 15 U.S.C. 78q-1.

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹ 17 CFR 240.19b-4(f)(2).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78s(b)(3)(A)(ii).

³ 17 CFR 240.19b-4(f)(2).

⁴ The Commission has modified the text of the summaries prepared by DTC.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-DTC-2006-21 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-DTC-2006-21. 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 filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at <https://login.dtcc.com/dtccorg/>. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-DTC-2006-21 and should be submitted on or before March 16, 2007.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7-3072 Filed 2-22-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55289; File No. SR-ISE-2007-04]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Network Fee Changes

February 13, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 17, 2007, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the ISE. The ISE has designated this proposal as one establishing or changing a due, fee, or other charge applicable only to a member under section 19(b)(3)(A)(ii) of the Act,³ and rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its Schedule of Fees to adopt a tiered structure for one of the Exchange's network fees. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and at <http://www.iseoptions.com>.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The ISE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the Exchange's Schedule of Fees to adopt a tiered structure for the Ethernet/Managed Service Provider fee charged to members.

The Ethernet/Managed Service Provider fee is a fee charged to ISE members to access the ISE's trading system via an Ethernet connection or a third-party managed service provider. The Ethernet/Managed Service Provider connection carries the same information (such as quotation and trade information) as other forms of connection (such as T-1 and T-3 point-to-point connections) and does not require any changes to the Exchange's surveillance or communications rules. There is no change to, or impact on, the Exchange's trading systems as a result of this method of connection.

An Ethernet/Managed Service Provider connection enables users to acquire bandwidth in megabit increments. The ISE currently charges members \$25.00 per Megabit (MB), and members may purchase up to 15MBs. The Exchange recently launched a new service whereby members will now be able to purchase up to 1000MBs. To bring this network fee in line with the new service, the ISE proposes to establish a new pricing structure for connection speeds. Specifically, the ISE proposes to charge members \$100.00 per month for a member's purchase of up to 10MBs of connection speed, \$250.00 per month for the purchase of 11 to 100MBs of connection speed, and \$500.00 per month for the purchase of 101MBs to 1GB (1000MBs) of connection speed. These fees will be charged on a per connection basis. As noted above, the Exchange previously limited any connection to a maximum of 15MBs. The Exchange notes that the fees proposed herein are intended to cover and reasonably relate to its costs in rolling out and supporting the new service.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(4)⁵ that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, these fees will enable the Exchange to cover

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ 15 U.S.C. 78f(b)(4).

¹⁰ 17 CFR 200.30-3(a)(12).

its costs in providing a faster form of connectivity by members to the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁶ and paragraph (f) of Rule 19b-4⁷ thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-ISE-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 Number SR-ISE-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 also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2007-04 and should be submitted on or before March 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E7-3069 Filed 2-22-07; 8:45 am]
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55288; File No. SR-ISE-2007-09]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, and Amendment No. 1 Thereto, To Establish Fee Discounts for Its Enhanced Sentiment Market Data Offering

February 13, 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 International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have

been substantially prepared by the ISE. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission. On February 9, 2007, the Exchange filed Amendment No. 1 to the proposed rule change.⁵ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees to adopt a discounted fee for a multi-product subscription of its enhanced sentiment market data offering ("ISEE Select™"). The text of the proposed rule change is available at the Exchange, on the Exchange's Web site at http://www.iseoptions.com/legal/proposed_rule_changes.asp, 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

Pursuant to a filing previously approved by the Commission, the Exchange currently sells on a subscription basis, to both members and non-members, ISEE Select.⁶ ISEE Select

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ In Amendment No. 1, the Exchange more clearly identifies the text it proposes to add to its Schedule of Fees, adds an explanation of certain of that proposed new language, and clarifies its description of the proposed discount.

⁶ See Securities Exchange Act Release Nos. 53532 (March 21, 2006), 71 FR 15501 (March 28, 2006) (SR-ISE-2005-56) (Notice of Filing of Proposed Rule Change to Establish Fees for Enhanced Sentiment Market Data); 53756 (May 3, 2006), 71 FR 27526 (May 11, 2006) (SR-ISE-2005-56) (Order Approving Proposed Rule Change to Establish Fees for Enhanced Sentiment Market Data) ("Initial Filing").

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 19b-4(f).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

is based on the ISE Sentiment Index[®], or ISEE[®], a calculation that represents an overall view of market sentiment. The ISEE provides an intra-day picture of how investors view stock prices by assessing customers' option trading activity. Unlike the traditional put/call ratio, which makes no distinction between customer, market maker or firm transactions, the ISEE measures only opening long customer transactions on the ISE. The ISE updates the current ISEE value hourly during market hours and posts it for free on its Web site.⁷

Pursuant to the Initial Filing, ISEE Select allows subscribers to identify bullish and bearish investor sentiment for nearly any issue traded on the Exchange using the same formula that is used for the ISEE calculation. Where the ISEE is a single value for the overall market sentiment, ISEE Select provides specific information to allow an end user to retrieve a sentiment value for an individual symbol via a user-defined query tool. In addition to the user-defined query tool, ISE also offers a pre-defined scanning tool that combs the market for sentiment levels that meet pre-defined parameters. ISEE Select provides sentiment values for particular indices, industry sectors or individual stocks and is calculated three times per hour versus only one time per hour for the ISEE.

ISEE Select is currently available to on-line investors on a subscription basis as follows: (i) 100 user-defined queries for \$11.95 per month; (ii) 200 user-defined queries for \$14.95 per month; (iii) unlimited user-defined queries for \$19.95 per month; and (iv) unlimited pre-defined queries for \$11.95 per month. ISEE Select is also offered by third-parties that participate in the Exchange's Marketing Alliance program.⁸ Customers of participating third-parties are able to take advantage

⁷ http://www.iseoptions.com/marketplace/statistics/sentiment_index.asp.

⁸ When the Commission published the Initial Filing, the Marketing Alliance program was known as the ISE Broker Marketing Alliance, and participation in it was limited to broker-dealers. Following the launch of the ISEE Select market data offering, and in response to the interest the Exchange received from many non-broker-dealers wishing to participate in the Marketing Alliance program, the Exchange subsequently expanded the program by eliminating its limitation to only broker-dealers. See Securities Exchange Act Release Nos. 54508 (September 26, 2006) 71 FR 58459 (October 3, 2006) (SR-ISE-2006-44) (Notice of Filing of Proposed Rule Change to Expand the Broker Marketing Alliance to Include Non-Broker-Dealers with Regard to Enhanced Sentiment Market Data Offering); 54704 (November 3, 2006), 71 FR 65859 (November 9, 2006) (SR-ISE-2006-44) (Order Approving Proposed Rule Change to Expand the Broker Marketing Alliance to Include Non-Broker-Dealers with Regard to Enhanced Sentiment Market Data Offering).

of a discounted price for the same four subscription levels. The discounted rates for these subscribers are as follows: (i) 100 user-defined queries for \$9.95 per month; (ii) 200 user-defined queries for \$11.95 per month; (iii) unlimited user-defined queries for \$15.95 per month; and (iv) unlimited pre-defined queries for \$9.95 per month.

The Exchange now proposes to offer to both member and non-member subscribers the following multi-product discounted subscription fees: \$24.95 per month for customers who subscribe directly through ISE to both the unlimited pre-defined query and either 200 user-defined queries or unlimited user-defined queries; or \$19.95 per month for customers of the Marketing Alliance program partners that subscribe to both the unlimited pre-defined query and either 200 user-defined queries or unlimited user-defined queries. The Exchange notes that the multi-product discounts noted above are an actual reduction of the actual subscription fees for the products to which they apply. If not for the multi-product discount that is proposed in this filing, for on-line subscribers directly through the ISE, these fees would be (i) \$26.90 per month for subscribers to both unlimited pre-defined queries and 200 user-defined queries, or (ii) \$31.90 per month for subscribers to both unlimited pre-defined queries and unlimited user-defined queries. For customers of the Marketing Alliance program partners, if not for the multi-product discount, these fees would be (i) \$21.90 per month for subscribers to both unlimited pre-defined queries and 200 user-defined queries, or (ii) \$25.90 per month for subscribers to both unlimited pre-defined queries and unlimited user-defined queries. Finally, the Exchange notes that the addition of the word "user-defined" to its Schedule of Fees is a clarifying change and not a substantive one. The enhanced sentiment market data offering that is currently sold by the Exchange consists of both a user-defined query tool and a pre-defined query tool. The purpose for adding the word "user-defined" is to differentiate it from the "pre-defined" query tool.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4), that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, the proposed rule filing will provide both members and non-members a multi-

product discount for subscription to ISEE Select.

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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the forgoing 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 after 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 and Rule 19b-4(f)(6) thereunder.⁹

A proposed rule change filed under 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay.

Prior to approving the current fee structure for ISEE Select, the Commission solicited comments from interested people, and no comments were received.¹⁰ The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow for immediate implementation of the proposed fee discount for this product, which is available to both members and non-members of the Exchange alike. In addition, this proposed rule change presents no novel issues. For these reasons, the Commission designates the proposed

⁹ In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The ISE satisfied this requirement.

¹⁰ See Securities Exchange Act Release Nos. 54508 and 54704, *supra* at n.8.

rule change to be effective and operative upon filing with the Commission.¹¹

At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ISE-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-ISE-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 Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does

not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2007-09 and should be submitted on or before March 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7-3075 Filed 2-22-07; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55309; File No. SR-ISE-2007-11]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating To Delay in the Implementation of the Trading Phase Date of Regulation NMS

February 16, 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 February 5, 2007, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been substantially prepared by the ISE. The ISE has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act,³ and Rule 19b-4(f)(1) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to remove the reference to "February 5, 2007" from its rules based upon the delay in the implementation of the Trading Phase Date of Regulation NMS under the Act. The text of the proposed rule change is

available at ISE, the Commission's Public Reference Room, and <http://www.ise.com>.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Based upon the delay in the implementation of the Trading Phase Date of Regulation NMS,⁵ the Exchange is proposing to revise rule language to incorporate this delay.

2. Statutory Basis

The ISE believes that 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.⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the Exchange believes that this filing will provide investors with more flexibility in entering orders and receiving executions of such orders.

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.

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(i).

⁴ 17 CFR 240.19b-4(f)(1).

⁵ See Securities Exchange Act Release No. 55160 (January 24, 2007), 72 FR 4202 (January 30, 2007) (File No. S7-10-04).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

¹¹ For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change will take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(i) of the Act⁸ and Rule 19b-4(f)(1) thereunder,⁹ because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ISE-2007-11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2007-11. 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](http://www.sec.gov/rules/sro.shtml)). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2007-11 and should be submitted on or before March 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E7-3094 Filed 2-22-07; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55302; File No. SR-MSRB-2006-09]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to MSRB Rule G-21, on Advertising, and MSRB Rule G-27, on Supervision

February 15, 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 November 21, 2006, the Municipal Securities Rulemaking Board ("MSRB") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change, and amended such proposed rule change on February 12, 2007 ("Amendment No. 1"), as described in Items I, II, and III below, which Items have been substantially prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule

change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB has filed with the SEC a proposed rule change consisting of (i) Amendments to Rule G-21, on advertising, and Rule G-27, on supervision, and (ii) an interpretation (the "proposed interpretive notice") on general advertising disclosures, blind advertisements and annual reports relating to municipal fund securities. The MSRB proposes that the proposed rule change be made effective on April 1, 2007. The text of the proposed rule change is available on the MSRB's Web site (<http://www.msrb.org>), at the MSRB's principal office, 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 MSRB 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 MSRB 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

In 2005, the MSRB adopted new section (e) of Rule G-21 that established specific standards for advertisements by brokers, dealers and municipal securities dealers ("dealers") of municipal fund securities, including interests in 529 college savings plans ("529 plans").³ This section of the rule was modeled in part on Rule 482 adopted by the SEC under the Securities Act of 1933, as amended (the "Securities Act"), and also codified previous MSRB interpretive guidance

³ Municipal fund securities are defined in Rule D-12. 529 college savings plans are established by states under Section 529(b)(A)(ii) of the Internal Revenue Code as "qualified tuition programs" through which individuals make investments for the purpose of accumulating savings for qualifying higher education costs of beneficiaries. Section 529 of the Internal Revenue Code also permits the establishment of so-called prepaid tuition plans by states and higher education institutions. All references to 529 plans are intended to encompass only 529 college savings plans established under Section 529(b)(A)(ii).

⁸ 15 U.S.C. 78s(b)(3)(A)(i).

⁹ 17 CFR 240.19b-4(f)(1).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

on advertisements of municipal fund securities. On May 12, 2006, the MSRB published interpretive guidance on certain elements of amended Rule G-21 as they apply to advertisements of 529 plans.⁴

The proposed rule change further harmonizes the MSRB's advertising rule with the rules of the SEC and NASD relating to investment company advertising. The proposed rule change also provides certain clarifications of and exceptions to existing standards that the MSRB believes more closely tailor the provisions of the rule to the specific characteristics of the municipal fund securities market without reducing the investor protections afforded by the rule. Although most of the amendments effected by the proposed rule change relate specifically to advertisements of municipal fund securities, certain provisions would apply to advertisements of all types of municipal securities, including bonds and notes.

Provisions of General Applicability

Definition of Advertisement. The proposed rule change modifies the existing definition of "advertisement" as set forth in Rule G-21(a)(i)⁵ to more closely conform it to the terms "advertisement" and "sales literature" under NASD Rule 2210(a)(1) and (2). The revised definition is intended to be as inclusive as the terms "advertisement" and "sales literature" are used under NASD and SEC rules, except as otherwise specifically provided in Rule G-21(a)(i). Thus, the reference in the revised definition of "advertisement" to any electronic or other public media should be read as broadly as in the definition of "advertisement" under NASD Rule 2210(a)(1), even though the definition set forth in Rule G-21(a)(i) does not include the list of media that currently or in the future may appear in the NASD definition.

Definition of Form Letter. The proposed rule change adds a new definition of "form letter" in Rule G-21(a)(ii) that is consistent with Rule 24b-1 under the Investment Company Act of 1940, as amended (the "Investment Company Act"), but clarifies that a form letter includes both

written letters (including post cards and similar mailings) and electronic mail messages.

Definitions of and Content Standards for Professional and Product Advertisements. The proposed rule change provides explicit definitions for "professional advertisement" and "product advertisement" and sets forth the applicable content standards for these types of advertisements. The amendment to the definition of "professional advertisement" under Rule G-21(b)(i) does not effect a change in how such term has been viewed historically under the rule. The amendment to the definition of "product advertisement" under Rule G-21(c)(i), however, clarifies that it applies to advertisements of specific municipal securities or advertisements that discuss specific features of municipal securities, rather than to advertisements that may merely mention general categories of municipal securities.⁶ The content standard for professional advertisements under Rule G-21(b)(ii) is unchanged, as is the baseline standard for product advertisements under Rule G-21(c)(ii).⁷

General Content Standard for Advertisements. Rule G-21(a)(iii) establishes a general content standard for advertisements that are neither professional advertisements nor product advertisements.⁸ This standard is the same as the existing baseline content standard for product advertisements. The MSRB emphasizes that all advertisements, regardless of category, are subject to the MSRB's basic fair dealing rule, Rule G-17, which requires each dealer, in the conduct of its municipal securities activities, to deal fairly with all persons, and prohibits the dealer from engaging in any deceptive, dishonest or unfair practice. The proposed rule change does not alter these fair dealing principles, which continue to apply to all advertisements.

Generic and Blind Advertisements for Municipal Fund Securities

Generic Advertisements. The proposed rule change establishes under Rule G-21(e)(i)(B)(1) provisions relating to generic advertising of municipal fund securities. A generic advertisement of

municipal fund securities that meets the requirements of Rule G-21(e)(i)(B)(1) would not need to include the general disclosures required under Rule G-21(e)(i)(A).⁹

Blind Advertisements. The proposed rule change provides for more limited disclosures for certain blind advertisements under Rule G-21(e)(i)(B)(2). Under this provision, advertisements that promote an issuer and its public purpose without promoting specific municipal fund securities or identifying a dealer or its affiliates would be permitted to limit basic disclosures in the same manner as generic advertisements.¹⁰ A blind advertisement may contain contact information for the issuer or its agent to obtain an official statement or other information, provided that if the dealer or its affiliate acts as such agent, no orders may be accepted through such contact unless such order is initiated by the customer. The proposed interpretive notice emphasizes that a blind advertisement may not identify the dealer or its affiliate and provides guidance to dealers acting as the issuer's agent in responding to customer inquiries and accepting customer orders made through the contact information included in a blind advertisement. The guidance provided with regard to whether an order may have been initiated by the customer applies solely to this provision of Rule G-21 and is not intended to be determinative as to whether the dealer has recommended the transaction to the customer for purposes of Rule G-19, on suitability of recommendations and transactions, since, depending on the facts and circumstances, the customer may have initiated the order based on a recommendation from the dealer.

In addition, advertisements qualifying as blind advertisements under Rule G-21(e)(i)(B)(2) are excepted from the requirement in Rule G-21(e)(iv) to include the dealer's capacity since the dealer is not identified in the advertisements.

Performance Data for Municipal Fund Securities

Disclosure of Fees and Expenses in Advertisements and Correspondence. The proposed rule change includes provisions substantially similar to

⁴ See Rule G-21 Interpretive Letter—529 College Savings Plan Advertisements, *MSRB Interpretation of May 12, 2006*, published in MSRB Notice 2006-13 (May 15, 2006) (the "May 2006 Interpretation"). When approved, the proposed rule change will supersede this May 2006 Interpretation.

⁵ The proposed rule change re-designates several existing provisions and incorporates new headings for many provisions to assist in compliance with the rule. References herein to rule provisions refer to such provisions as re-designated in the proposed rule change.

⁶ The definition of "product advertisement" in the proposed rule change codifies interpretive guidance provided in the May 2006 Interpretation.

⁷ However, the additional specific content standards under section (e) of Rule G-21 for municipal fund securities product advertisements are modified by the proposed rule change, as described below.

⁸ The May 2006 Interpretation effectively recognized that the professional and product advertisement content standards under existing Rule G-21 may not apply to certain advertisements that do not fit neatly into either category.

⁹ Rule G-21(e)(i)(B)(1) is modeled in part on Securities Act Rule 135a relating to generic investment company advertising. However, the proposed rule change modifies or omits certain basic features of Rule 135a to adapt the concept of generic advertising to the specific characteristics of the municipal fund securities market.

¹⁰ This provision effectively codifies, with minor modifications, interpretive guidance provided in the May 2006 Interpretation.

recently approved NASD Rule 2210(d)(3) relating to investment company advertisements, sales literature and correspondence containing performance data, which becomes effective on April 1, 2007.¹¹ Rule G-21(e)(i)(A)(3)(b) and (c) will retain the existing requirement that advertisements containing performance data for municipal fund securities disclose the maximum amount of the sales load or other nonrecurring fee.¹² Such advertisement will be further required to disclose the total annual operating expense ratio, except for municipal fund securities held out as having the characteristics of a money market fund.¹³ Print advertisements will be required under Rule G-21(e)(i)(A)(4)(a)(iii) to include text box disclosure of this information, which may be combined with comparative performance and fee data and disclosures provided for under section (e) of the rule. New Rule G-21(e)(vii) will provide that any correspondence with the public that includes performance data for municipal fund securities must comply with the performance data requirements of Rule G-21(e) as if such correspondence were a product advertisement under that section of the rule.¹⁴ The proposed rule change adds language in Rule G-27(d)(ii), on supervision, with respect to supervisory procedures relating to the review of correspondence for compliance with this new requirement.¹⁵

¹¹ See Exchange Act Release No. 54103 (July 5, 2006), 71 FR 39379 (July 12, 2006). See also NASD Notice to Members 06-48 (September 2006).

¹² As required under NASD Rule 2210(d)(3)(A)(ii)(a), such maximum sales load (whether as a maximum sales charge or maximum deferred sales charge) must be current as of the date such advertisement is submitted for publication or is otherwise disseminated.

¹³ Under Rule G-21(e)(ii)(C), the total annual operating expense ratio must be calculated as of the most recent practicable date considering the type of municipal fund securities and the media through which such information will be conveyed. Additional language included in Rule G-21(e)(i)(A)(3)(c) and (e)(ii)(A) recognizes that municipal fund securities are not subject to the registration requirements of the Securities Act and is designed to ensure that information on fees and expenses is determined in a manner consistent with the registered investment company market, to the extent possible.

¹⁴ Although the other provisions of Rule G-21 would not apply to correspondence covered by Rule G-21(e)(vii), the basic fair dealing requirements of Rule G-17 described above would still apply.

¹⁵ The language added to Rule G-27(d)(ii) makes clear that a dealer's supervisory procedures must provide for review of correspondence for compliance with the performance data requirements, but only to the extent that such requirements are applicable given the nature of the dealer's municipal securities activities. Thus, dealers that do not market municipal fund securities generally would not be required to

Disclosures Relating to Tax-Adjusted Performance Data. The proposed rule change amends Rule G-21(e)(ii)(E) to delete subparagraph (2). The deleted provision currently requires that, in connection with the calculation of any tax-equivalent yield or after-tax return that appears in an advertisement for municipal fund securities, if the then-effective federal income tax treatment upon which such yield or return was based is subject to lapse or other adverse change without extension or change of federal law, the advertisement must disclose this fact and that such yield or return would be lower if the then-effective federal income tax treatment is not extended or otherwise changed. This deletion reflects the repeal of the sunset provision for many of the federal tax benefits enjoyed by 529 plans, as described below.

General Disclosure Requirements for Municipal Fund Securities

Substance of Disclosure. The proposed rule change makes several modifications to rule language in Rule G-21(e)(i)(A)(1) and (2) relating to disclosures designed to communicate basic information concerning investments in municipal fund securities. The modified provisions and the proposed interpretive notice clarify that these disclosures are not legends requiring the inclusion of specific language but instead require that such information be effectively conveyed. Thus, these disclosure requirements may be complied with if the substance of such information is effectively conveyed, regardless of the specific language used in the advertisement.¹⁶ In general, the context in which the information is provided is an important factor in determining whether the information is effectively conveyed.

The MSRB understands that these advertising disclosures have presented considerable challenges in the context of broadcast advertisements, such as traditional television or radio commercials with 30-second run-times or public service announcements that may have considerably shorter run-times.¹⁷ The proposed interpretive notice provides guidance on the use of abbreviated forms of the required

provide for review of correspondence for compliance with Rule G-21(e)(vii).

¹⁶ Compare Rule G-21(e)(i)(A)(3)(a), where a legend is explicitly required.

¹⁷ These disclosures can be lengthier for many 529 plan advertisements than for investment company advertisements as a result of the home state tax benefit disclosures generally required under Rule G-21(e)(i)(A)(2)(b) as described below, which are not required in connection with investment company advertisements.

disclosures in time-limited broadcast advertisements.

Home State Tax Benefits. Rule G-21(e)(i)(A)(2)(b) requires 529 plan product advertisements to include disclosure to the effect that investors should consider, before investing, whether their home states offer state tax or other benefits only available for investments in the home state 529 plan. The proposed rule change permits dealers to omit such disclosures in advertisements (such as form letters, post cards, e-mails and other written or electronic mailings) concerning a state's 529 plan that are sent to, or are otherwise distributed through means that are reasonably likely to result in the advertisements being received by, only residents of such state. The MSRB views such omission as most suitable with respect to advertisements that are delivered directly to intended recipients, and not well suited with respect to broadcast advertisements where the dealer would bear the burden of establishing that such broadcast is reasonably likely to result in the message being received only by in-state residents.

Communications With Existing Customers. The proposed rule change adds new Rule G-21(e)(i)(B)(3), which permits dealers to distribute form letters relating to municipal fund securities that omit some or all of the disclosures required under Rule G-21(e)(i)(A)(1) and (2) to existing customers who have previously invested in municipal fund securities. Form letters sent solely to existing customers about the same or related municipal fund securities that such customers already own may omit all of the standard disclosures under such subparagraphs (1) and (2) since that information will have previously been provided to such customers. If the form letters relate to municipal fund securities other than, or unrelated to, the one the customer already invests in, then the disclosures under subparagraph (2) are required. Furthermore, if the form letter identifies a source for obtaining an official statement and the dealer underwrites the municipal fund securities advertised in the form letter, the dealer is required to disclose that it is the underwriter.

Tax-Related Disclosures for Municipal Fund Securities

Rule G-21(e)(v) requires a product advertisement for municipal fund securities that discusses tax benefits to disclose that such benefits may be conditioned on meeting certain requirements. If the nature of specific benefits is described, the factors that may materially limit their availability

must be named. The proposed rule change modifies this subsection to clarify that generalized statements regarding tax benefits require only a generalized statement that certain conditions may apply and that, where specific benefits are described, only those substantive factors that may materially affect the ability to realize such benefits must be listed, rather than explained in full. For example, a statement that 529 plans are federally tax-advantaged, or that investors may qualify for federal tax benefits by investing in a 529 plan, without identifying the specific benefits, would be viewed as generalized statements. In such cases, a statement that certain conditions may apply, or that refers customers to the official statement for more information, would be sufficient. Furthermore, the inclusion of the required home state tax disclosure under Rule G-21(e)(i)(A)(2)(b) does not, by itself, require the disclosure of conditions for receiving such state tax benefits.

Required Annual Reports Excluded From Definition of Advertisement

The proposed interpretive notice provides guidance to the effect that, in circumstances where a dealer may be required by state law or rules and regulations to prepare or distribute an annual financial report or other similar information regarding a municipal fund securities program, such report or information will not be treated as an advertisement so long as the dealer provides such report or information solely in the manner required by such state law or rules and regulations.

Effective Dates

The MSRB proposes that the proposed rule change be made effective on April 1, 2007 to coincide with the effective date of NASD Rule 2210(d)(3).

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,¹⁸ which provides that the MSRB's rules shall:

be 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Act because it will further investor protection by raising the standards for advertisements of municipal fund securities and by making information provided in such advertisements comparable for different municipal fund securities investments and between municipal fund securities and registered mutual funds.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

On August 11, 2006, the MSRB published for comment draft amendments to Rules G-21 and G-27 relating to advertisements of 529 plans (the "Notice").¹⁹ The draft amendments, as published in the Notice, would:

(1) Modify the definition of "advertisement" to more closely align it with the usage of the terms "advertisement" and "sales literature" under SEC and NASD rules; (2) adopt a definition of "form letter" consistent with the definition used by the SEC under the Investment Company Act; (3) establish an explicit baseline standard for advertisements and more clearly define "professional advertisement" and "product advertisement"; (4) adopt provisions for generic advertisements of municipal fund securities; (5) adopt provisions requiring advertisements and correspondence containing performance data to also include disclosure of fees and expenses that are substantially the same as under recently approved amendments to NASD Rule 2210(d)(3); (6) clarify and simplify the general disclosure requirements with respect to certain broadcast advertisements, promotional materials and form letters relating to municipal fund securities; and (7) clarify and simplify the nature of disclosures required in advertisements of municipal fund securities in connection with tax matters and tax-adjusted performance data.

The MSRB received comments from three commentators.²⁰ After reviewing

the comments, the MSRB has determined to file this proposed rule change. The proposed rule change is substantially similar to the draft amendments, with certain modifications discussed below. The principal comments and the MSRB's responses are also discussed below.

Additional Disclosures Relating to Home State Tax Benefits

Rule G-21 currently requires 529 plan advertisements to state that investors should consider whether their home states offer state tax or other benefits only available for investments in the home state 529 plan. For advertisements (such as form letters, post cards, e-mails and other written or electronic mailings) concerning a state's 529 plan that are sent solely to residents of that state, the draft amendment modified this provision to permit dealers to omit such disclosure since it is not relevant to such recipients.

CSPN requested that language in this provision referencing advertisements published or disseminated by "the issuer or any of the issuer's agents" be deleted since the MSRB has no authority to regulate issuers. The MSRB notes that this provision was not intended to regulate the actions of issuers, but rather to limit the ability of a dealer to use this exception if its advertisement is further disseminated by other parties, including the issuer or its agents. However, to avoid ambiguity, the MSRB has modified Rule G-21(e)(i)(A)(2)(b) to replace this language with language that instead refers to advertisements made available by dealers to the issuer or any of the issuer's agents with the expectation or understanding that such other parties will otherwise publish or disseminate such advertisements.

Generic Advertisements

The draft amendments included a generic advertising provision that would allow dealers to omit many required disclosures from advertisements that contain only general information about municipal fund securities and that do not name a municipal fund security or a specific investment option or portfolio of an issuer of municipal fund securities. CSPN, ICI and SIA requested that language in the draft amendments stating that a generic advertisement may

A. Lanza, MSRB, dated September 22, 2006; Dorothy M. Donohue, Associate Counsel, Investment Company Institute ("ICI"), to Mr. Lanza, dated September 22, 2006; and Michael Udoff, Vice President, Associate General Counsel and Secretary, and Elizabeth Varley, Vice President and Director, Retirement Policy, Securities Industry Association ("SIA"), to Mr. Lanza, dated September 22, 2006.

¹⁹ See MSRB Notice 2006-26 (August 11, 2006).

²⁰ Letters from: Jacqueline T. Williams, Chair, College Savings Plan Network ("CSPN"), to Ernesto

¹⁸ 15 U.S.C. 78o-4(b)(2)(C).

not refer by name “to any specific municipal fund security” be deleted, arguing that it creates ambiguities as to whether a reference in an advertisement to a 529 plan’s general program name would disqualify such advertisement from being considered a generic advertisement.²¹

The MSRB believes that the deletion requested by the commentators would be appropriate and consistent with the intended operation of this provision. Thus, as this provision has been modified in the proposed rule change, an advertisement that mentions the 529 plan’s general program name could be considered a generic advertisement if all other relevant conditions have been met. However, mention of specific investment options or portfolios would disqualify the advertisement from being treated as a generic advertisement.

Blind Advertisements

The draft amendments provided that a blind advertisement that promotes an issuer and its public purpose without promoting specific municipal fund securities or identifying a dealer or its affiliates also would qualify as a generic advertisement. Among other things, a blind advertisement may include contact information for the issuer or an agent of the issuer to obtain an official statement or other information, provided that if such issuer’s agent is a dealer or dealer affiliate, no orders for 529 plans may be accepted through such source. The provision for blind advertisements was designed to address the unique characteristics of the 529 plan market, where regulated dealers and issuers not subject to MSRB regulation often undertake public-private partnerships in marketing 529 plans, raising issues that do not arise in the registered investment company market.

CSPN and ICI requested clarification that the use in an advertisement of a phone number or Web site that includes the name of a dealer acting as the issuer’s agent would not preclude such advertisement from being treated as a blind advertisement. The intent of this provision is that a blind advertisement cannot, on its face, identify a dealer or its affiliates. Therefore, although contact information may be included in the advertisement that directs a potential customer to a dealer or its affiliate acting as agent of the issuer, the face of the advertisement may not identify such

dealer or affiliate. The proposed interpretive notice provides guidance on information that may be included in a blind advertisement.

CSPN and ICI also requested modifications to the language providing that, if the source for more information identified in the advertisement is the dealer or a dealer affiliate, no orders may be accepted through that source. The commentators were concerned that a reference to a Web site for more information would preclude such Web site from allowing investments in the 529 plan. CSPN stated that “[e]very web site on which an individual can purchase interests in a Section 529 Plan requires the investor to acknowledge reading or receiving the Official Statement before investing. It is not clear what would be gained by requiring the potential investor to get information from one web site and then make the purchase on another web site.” ICI suggested alternative language to the effect that “no initial orders for municipal fund securities shall be accepted through such source, unless before placing such an order an investor is required to acknowledge that he or she received the official statement for such securities.”

The MSRB understands the concern expressed in connection with Web-based sources but believe that ICI’s suggested language is not the appropriate approach to addressing this issue, particularly since Rule G–17, on fair practice, already requires dealers to provide all material facts about the transaction known by the dealer, as well as material facts about the security that are reasonably accessible to the market, to the customer on or prior to the time of trade.²² Given that the provision for blind advertisements seeks to ensure that such advertisements are informational in nature and not primarily designed to promote sales by the dealer, the MSRB believes that a distinct barrier between providing information and seeking orders should be maintained. However, the MSRB does not believe that such barrier should create an arbitrary disincentive for those potential customers who themselves seek to initiate an order.

Thus, the proposed rule change modifies the language of Rule G–21(e)(i)(B)(2)(b) to allow the acceptance of orders if initiated by the customer. The proposed interpretive notice provides guidance on ensuring that only customer-initiated orders are accepted

through a source identified in a blind advertisement.

Tax-Adjusted Performance Data

Rule G–21 currently provides that, in calculating tax-equivalent yield or after-tax return for a 529 plan advertisement, the advertisement must effectively disclose that such yield or return would be lower if the sunset provision for many of the federal tax benefits enjoyed by 529 plans, previously scheduled to occur on January 1, 2011, were not repealed. In view of the recent enactment of the Pension Protection Act of 2006 (Pub. L. 109–280), which repealed this sunset provision, the Notice sought comment on whether this provision should be deleted. CSPN, ICI and SIA agreed that this provision should be deleted. Thus, the proposed rule change deletes this provision in Rule G–21(e)(ii)(E).

Required Annual Reports Excluded From Definition of Advertisement

CSPN stated that the broad definition of advertisement in Rule G–21 could be construed to include annual financial reports undertaken by many dealers acting as 529 plan program managers. CSPN stated that such annual reports are not solicitations of new business and suggested that audited annual reports produced for or in conjunction with issuers be explicitly exempted from treatment as an advertisement.

The MSRB notes that NASD has issued several interpretive letters in which NASD addresses the applicability of its advertising rule, Rule 2210, to certain performance information and hypothetical illustrations required by state laws to be provided by dealers in connection with retirement investments and variable annuity contracts.²³ In each case, NASD concluded that the provision by dealers of the information required by state law would not be treated as an advertisement or sales literature for purposes of Rule 2210 so long as the information was provided solely in the manner required by law. NASD further stated that any additional use of such information beyond what is required by law would be subject to the NASD advertising rule. In addition, NASD stated in one of the interpretive letters that the use of such information

²¹ CSPN observed that this ambiguity arises from the fact that some no-action letters issued by SEC staff with respect to 529 plans refer to various interests relating to such 529 plans, other than the individual shares purchased by customers, as municipal securities.

²² See Rule G–17 Interpretation—Interpretive Notice Regarding Rule G–17, on Disclosure of Material Facts, March 20, 2002, reprinted in MSRB Rule Book.

²³ See letter dated November 29, 2004, to Therese Squillacote, Chief Compliance Officer, ING Financial Advisers, LLC, from Philip A. Shaikun, Assistant General Counsel, NASD; letter dated September 30, 2002, to Sally Krawczyk, Esq., Sutherland, Asbill & Brennan, LLP, from Mr. Shaikun; and letter dated February 5, 1999, to W. Thomas Conner, Vice President, Regulatory Affairs, National Association of Variable Annuities, from Robert J. Smith, Office of General Counsel, NASD Regulation, Inc.

by the dealer remained subject to all other NASD rules and the federal securities laws, including the anti-fraud provisions.

The MSRB believes that the approach NASD has taken with respect to investment companies is appropriate as well with respect to 529 plans and other municipal fund securities programs and has provided guidance to this effect in the proposed interpretive notice.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. By order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-MSRB-2006-09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-MSRB-2006-09. 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 Room. Copies of such filing also will be available for inspection and copying at the MSRB's offices. 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-MSRB-2006-09 and should be submitted on or before March 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁴

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7-3091 Filed 2-22-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55300; File No. SR-NASDAQ-2007-002]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Trade the Shares of Certain Exchange-Traded Funds Based on Fixed Income Portfolios Pursuant to Unlisted Trading Privileges

February 15, 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 29, 2007, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. On February 13, 2007, Nasdaq filed Amendment No. 1 to the proposed rule change. This Order provides notice of the proposed rule change, as modified by Amendment No. 1, and approves the proposed rule

change, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to trade shares (the "Shares") of: (1) The iShares Lehman TIPS Bond Fund; (2) the iShares Lehman Aggregate Bond Fund; (3) the iShares iBoxx \$ Investment Grade Corporate Bond Fund; (4) the iShares Lehman 20+ Year Treasury Bond Fund; (5) the iShares 7-10 Year Treasury Bond Fund; (6) the iShares Lehman 1-3 Year Treasury Bond Fund; (7) the iShares Lehman Short Treasury Bond Fund; (8) the iShares Lehman 3-7 Year Treasury Bond Fund; (9) the iShares Lehman 10-20 Year Treasury Bond Fund; (10) the iShares Lehman 1-3 Year Credit Bond Fund; (11) the iShares Lehman Intermediate Credit Bond Fund; (12) the iShares Lehman Credit Bond Fund; (13) the iShares Lehman Intermediate Government/Credit Bond Fund; and (14) the iShares Lehman Government/Credit Bond Fund (collectively, the "Funds") pursuant to unlisted trading privileges ("UTP"). The text of the proposed rule change is available at Nasdaq, the Commission's Public Reference Room, and nasdaq.complinet.com.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III 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

Nasdaq is proposing to trade pursuant to UTP the Shares of the Funds, which are exchange-traded funds ("ETFs") that invest in fixed income securities. Nasdaq represents that its current generic listing standards for ETFs do not extend to ETFs that invest in fixed income securities. The systems operated by Nasdaq and its affiliates currently trade Shares of the Funds on an over-the-counter basis as facilities of NASD.

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The iShares Lehman TIPS Bond Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the inflation-protected sector of the U.S. Treasury market, as defined by the Lehman Brothers U.S. TIPS Index.³ The Lehman Brothers U.S. TIPS Index measures the performance of inflation-protected public obligations of the U.S. Treasury, commonly known as "TIPS." The Commission previously approved the original listing and trading of shares of this Fund on the New York Stock Exchange, Inc. ("NYSE").⁴

The iShares Lehman Aggregate Bond Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the total U.S. investment-grade bond market, as defined by the Lehman Brothers U.S. Aggregate Index. The Lehman Brothers U.S. Aggregate Index measures the performance of the total U.S. investment-grade bond market, which includes investment-grade U.S. Treasury bonds, government-related bonds, investment-grade corporate bonds, mortgage pass-through securities, commercial mortgage-backed securities, and asset-backed securities that are publicly offered for sale in the United States. The Commission previously approved the original listing and trading of shares of this Fund on the American Stock Exchange LLC ("Amex").⁵

The iShares iBoxx \$ Investment Grade Corporate Bond Fund (formerly the iShares GS \$ InvesTop Corporate Bond Fund) seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of a segment of the U.S. investment-grade corporate bond market, as defined by the iBoxx \$ Liquid Investment Grade Index (formerly the GS \$ InvesTop Index). The iBoxx \$ Liquid Investment Grade Index measures the performance of a fixed number of highly liquid, investment-grade corporate bonds. The Commission previously approved the original listing and trading of shares of this Fund on Amex.⁶

The iShares Lehman 20+ Year Treasury Bond Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the long-term sector of the U.S. Treasury market, as defined by the Lehman Brothers 20+ Year U.S. Treasury Index. The Lehman Brothers 20+ Year Treasury Index measures the performance of public obligations of the U.S. Treasury that have a remaining maturity of 20 or more years. The Commission previously approved the original listing and trading of shares of this Fund on Amex.⁷

The iShares Lehman 7–10 Year Treasury Bond Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the intermediate-term sector of the U.S. Treasury market, as defined by the Lehman Brothers 7–10 Year U.S. Treasury Index. The Lehman Brothers 7–10 Year Treasury Index measures the performance of public obligations of the U.S. Treasury that have a remaining maturity of greater than or equal to seven years and less than ten years. The Commission previously approved the original listing and trading of shares of this Fund on Amex.⁸

The iShares Lehman 1–3 Year Treasury Bond Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the short-term sector of the U.S. Treasury market, as defined by the Lehman Brothers 1–3 Year U.S. Treasury Index. The Lehman Brothers 1–3 Year U.S. Treasury Index measures the performance of public obligations of the U.S. Treasury that have a remaining maturity of greater than or equal to one year and less than three years. The Commission previously approved the original listing and trading of shares of this Fund on Amex.⁹

The iShares Lehman Short Treasury Bond Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the short-term sector of the U.S. Treasury market, as defined by the Lehman Brothers Short U.S. Treasury Index. The Lehman Brothers Short U.S. Treasury Index measures the performance of public obligations of the U.S. Treasury that have a remaining maturity of between one and 12 months. The Commission previously approved

the original listing and trading of shares of this Fund on NYSE.¹⁰

The iShares Lehman 3–7 Year Treasury Bond Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the intermediate-term sector of the U.S. Treasury market, as defined by the Lehman Brothers 3–7 Year U.S. Treasury Index. The Lehman Brothers 3–7 Year U.S. Treasury Index measures the performance of public obligations of the U.S. Treasury that have a remaining maturity of greater than or equal to three years and less than seven years. The Commission previously approved the original listing and trading of shares of this Fund on NYSE.¹¹

The iShares Lehman 10–20 Year Treasury Bond Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the long-term sector of the U.S. Treasury market, as defined by the Lehman Brothers 10–20 Year U.S. Treasury Index. The Lehman Brothers 10–20 Year U.S. Treasury Index measures the performance of public obligations of the U.S. Treasury that have a remaining maturity of greater than or equal to ten years and less than 20 years. The Commission previously approved the original listing and trading of shares of this Fund on NYSE.¹²

The iShares Lehman 1–3 Year Credit Bond Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the investment-grade credit sector of the U.S. bond market, as defined by the Lehman Brothers 1–3 Year U.S. Credit Index. The Lehman Brothers 1–3 Year U.S. Credit Index measures the performance of investment-grade corporate debt and sovereign, supranational, local authority, and non-U.S. agency bonds that have a remaining maturity of greater than or equal to one year and less than three years. The Commission previously approved the original listing and trading of shares of this Fund on NYSE.¹³

The iShares Lehman Intermediate Credit Bond Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the investment-grade credit sector of the U.S. bond market, as defined by the Lehman Brothers Intermediate U.S. Credit Index. The

³ E-mail from John Yetter, Deputy General Counsel, Nasdaq, to Edward Cho, Special Counsel, Division of Market Regulation, Commission, on February 8, 2007 (correcting the name of the Lehman Brothers U.S. TIPS Index).

⁴ See Securities Exchange Act Release No. 48881 (December 4, 2003), 68 FR 69739 (December 15, 2003) (SR-NYSE-2003-39).

⁵ See Securities Exchange Act Release No. 48534 (September 24, 2003), 68 FR 56353 (September 30, 2003) (SR-Amex-2003-75).

⁶ See Securities Exchange Act Release No. 46252 (July 24, 2002), 67 FR 49715 (July 31, 2002) (SR-Amex-2001-35).

⁷ See *id.*

⁸ See *id.*

⁹ See *id.*

¹⁰ See Securities Exchange Act Release No. 54916 (December 11, 2006), 71 FR 76008 (December 19, 2006) (SR-NYSE-2006-70).

¹¹ See *id.*

¹² See *id.*

¹³ See *id.*

Lehman Brothers Intermediate U.S. Credit Index measures the performance of investment-grade corporate debt and sovereign, supranational, local authority, and non-U.S. agency bonds that have a remaining maturity of greater than or equal to one year and less than ten years. The Commission previously approved the original listing and trading of shares of this Fund on NYSE.¹⁴

The iShares Lehman Credit Bond Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the investment-grade credit sector of the U.S. bond market, as defined by the Lehman Brothers U.S. Credit Index. The Lehman Brothers U.S. Credit Index measures the performance of investment-grade corporate debt and sovereign, supranational, local authority, and non-U.S. agency bonds that have a remaining maturity of greater than or equal to one year. The Commission previously approved the original listing and trading of shares of this Fund on NYSE.¹⁵

The iShares Lehman Intermediate Government/Credit Bond Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the investment-grade credit sector of the U.S. bond market and the total U.S. Treasury market, as defined by the Lehman Brothers Intermediate U.S. Government/Credit Index. The Lehman Brothers Intermediate U.S. Government/Credit Index measures the performance of U.S. dollar-denominated U.S. Treasury securities and government-related and investment-grade U.S. corporate securities that have a remaining maturity of greater than or equal to one year and less than ten years. The Commission previously approved the original listing and trading of shares of this Fund on NYSE.¹⁶

The iShares Lehman Government/Credit Bond Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the U.S. government and investment-grade U.S. corporate securities of the U.S. bond market, as defined by the Lehman Brothers U.S. Government/Credit Index. The Lehman Brothers U.S. Government/Credit Index measures the performance of U.S. dollar-denominated U.S. Treasury securities and government-related and investment-grade U.S. corporate securities that have a remaining maturity of greater than or equal to one

year. The Commission previously approved the original listing and trading of shares of this Fund on NYSE.¹⁷

The foregoing underlying indexes on which the Funds are based are referred to herein collectively as the "Indexes." The exact composition and methodologies of each Index are described in detail in the filings pursuant to which NYSE and Amex sought to originally list and trade the Shares of the Funds.¹⁸

Quotations for and last sale information regarding the Fund Shares are disseminated through the Consolidated Tape System ("CTS"). On each business day, the list of names and amount of each security constituting the current Deposit Securities¹⁹ and the Balancing Amount²⁰ effective as of the previous business day will be made available through the National Securities Clearing Corporation ("NSCC"). An amount per Share representing the sum of the estimated Balancing Amount effective through and including the previous business day, plus the current value of the Deposit Securities in U.S. dollars, on a per-Share basis (the Intraday Optimized Portfolio Value or "IOPV"), will be calculated by an independent third party, such as Bloomberg L.P., every 15 seconds during Nasdaq's regular trading hours and disseminated every 15 seconds through the CTS. Because NSCC does not disseminate information about the Portfolio Deposit immediately following the end of regular market hours, an updated IOPV cannot be calculated during Nasdaq's post-market trading session, 4:15 p.m. to 8 p.m. Eastern Time ("ET").

Nasdaq states that NYSE and Amex, as applicable, disseminate on a daily basis a variety of data with respect to each Fund by means of the Consolidated Tape Association/Consolidated Quotation High Speed Lines, including information with respect to recent NAV for each Fund, shares outstanding, and the estimated cash amount and total cash amount per Creation Unit

¹⁷ See *id.*

¹⁸ See *supra* notes 4, 5, 6, and 10.

¹⁹ Deposit Securities are the designated portfolio of securities that correspond generally to the price and yield performance of the relevant Fund's Index to be deposited in-kind for the purchase of blocks of 50,000 Shares, each such block referred to as a "Creation Unit Aggregation."

²⁰ The Balancing Amount is an amount equal to the difference between the net asset value ("NAV") of the Fund and the total aggregate market value, per Creation Unit Aggregation, of the Deposit Securities. The deposit of the requisite Deposit Securities and the Balancing Amount are collectively referred to as the "Portfolio Deposit," which represents the minimum initial and subsequent investment amount for a Creation Unit Aggregation.

Aggregation. In addition, the iShares Web site (http://www.ishares.com/fund_info), which is publicly accessible at no charge, contains the following information, on a per-Share basis, for each Fund: (1) The prior business day's NAV; (2) the mid-point of the bid-ask price and a calculation of the premium or discount of such price against such NAV; and (3) data in chart format displaying the frequency distribution of discounts and premiums of the bid-ask price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

The value of each Index is calculated once each trading day and is available from major market data vendors. The NAV for each Fund is calculated and disseminated daily through a number of sources, including the Web sites of the original listing exchanges, as applicable, the iShares Web site, and CTS.

Nasdaq states that it will halt trading in the Shares of a Fund under the conditions specified in Nasdaq Rules 4120 and 4121. The conditions for a trading halt include a regulatory halt by the original listing market. UTP trading in the Shares will also be governed by provisions of Nasdaq Rule 4120 relating to temporary interruptions in the calculation or wide dissemination of the IOPV or the value of the Index.²¹ Additionally, the Exchange states that it may cease trading the Shares if other unusual conditions or circumstances exist, which, in the opinion of the Exchange, make further dealings on the Exchange detrimental to the maintenance of a fair and orderly market. The Exchange represents that it would follow any procedures with respect to trading halts as set forth in Nasdaq Rule 4120(b).

Nasdaq deems the Shares of the Funds to be equity securities, and therefore, trading in the Shares will be subject to Nasdaq's existing rules governing the trading of equity securities. The primary trading hours for the Shares on Nasdaq will be 9:30 a.m. to 4:15 p.m. ET. The Shares will also be traded on Nasdaq in a post-market session from 4:15 p.m. to 8 p.m. ET.²² Nasdaq represents that it has in place appropriate rules to facilitate

²¹ See Securities Exchange Act Release No. 55269 (February 9, 2007), 72 FR 7490 (February 15, 2007) (SR-NASDAQ-2006-050).

²² Nasdaq relies on the listing market to monitor dissemination of the IOPV during Nasdaq's regular market hours (9:30 a.m. to 4:15 p.m. ET). Currently, updated Index values are not calculated during Nasdaq's post-market session; however, if in the future such values are calculated, Nasdaq would not trade the Fund Shares unless such official Index values were widely disseminated.

¹⁴ See *id.*

¹⁵ See *id.*

¹⁶ See *id.*

transactions in the Shares during all trading sessions.

In connection with the trading of the Shares, Nasdaq will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares, as well as the requirements of Nasdaq Rule 2310, which requires Nasdaq members to determine that a particular security is suitable for a customer before recommending a transaction in it. Nasdaq also would require its members to deliver a prospectus or product description to investors purchasing the Shares prior to or concurrently with a transaction in the Shares.

Nasdaq believes that its surveillance procedures are adequate to address any concerns about the trading of the Shares on Nasdaq. Trading of the Shares through NASD facilities operated by Nasdaq is currently subject to NASD's surveillance procedures for equity securities in general and ETFs in particular. After Nasdaq begins to operate as an exchange with respect to securities not listed on Nasdaq, NASD, on behalf of Nasdaq, will continue to surveil Nasdaq trading, including Nasdaq trading of the Shares. Nasdaq's transition to exchange status will not result in any change in the surveillance process with respect to the Shares.²³

2. Statutory Basis

The proposal is consistent with Section 6(b) of the Act²⁴ in general and Section 6(b)(5) of the Act²⁵ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. In addition, the proposal is consistent with Rule 12f-5 under the Act²⁶ because Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in

²³ Surveillance of all trading on NASD facilities operated by Nasdaq is currently conducted by NASD. Following Nasdaq's transition to exchange status, NASD will continue to surveil trading, pursuant to a regulatory services agreement. Nasdaq is responsible for NASD's performance under this regulatory services agreement.

²⁴ 15 U.S.C. 78f(b).

²⁵ 15 U.S.C. 78f(b)(5).

²⁶ 17 CFR 240.12f-5.

any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2007-002 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-2007-002. 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 offices 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-2007-002 and should be submitted on or before March 16, 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 Act and the rules and regulations thereunder applicable to a national securities exchange.²⁷ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,²⁸ which requires that an exchange have rules designed, among other things, 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. The Commission believes that this proposal should benefit investors by increasing competition among markets that trade the Shares.

In addition, the Commission finds that the proposal is consistent with Section 12(f) of the Act,²⁹ which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.³⁰ The Commission notes that it previously approved the listing and trading of the Shares on NYSE and Amex, as applicable.³¹ The Commission also finds that the proposal is consistent with Rule 12f-5 under the Act,³² which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. The Exchange has represented that it meets this requirement because it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules

²⁷ 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).

²⁸ 15 U.S.C. 78f(b)(5).

²⁹ 15 U.S.C. 78l(f).

³⁰ Section 12(a) of the Act, 15 U.S.C. 78l(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to Section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange "extends UTP." When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

³¹ See *supra* notes 4, 5, 6, and 10.

³² 17 CFR 240.12f-5.

governing the trading of equity securities.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,³³ which sets forth Congress's 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. Quotations for and last sale information regarding the Fund Shares are disseminated through CTS. Furthermore, an IOPV for each Fund, updated to reflect changes in the amount of the Portfolio Deposit, on a per-Share basis, is calculated and published by a third-party service provider through CTS on a 15-second delayed basis during Nasdaq's regular trading hours. Major market data vendors calculate and disseminate once each trading day the value of each Index and the NAV for each Fund. Amex and NYSE, as applicable, disseminate information with respect to NAV and cash amounts per Creation Unit Aggregation, and the iShares Web site supplies additional trading data for the Shares, both current and historical. If the listing market halts trading in the Shares, or the IOPV or any Index value is not being calculated or disseminated, the Exchange would halt trading in the Shares.

The Commission notes that, if the Shares should be delisted by the listing exchange, the Exchange would no longer have authority to trade the Shares pursuant to this order.

In support of this proposal, the Exchange has made the following representations:

(1) The Exchange's surveillance procedures are adequate to address any concerns associated with the trading of the Shares on a UTP basis.

(2) The Exchange would inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares, including suitability recommendation requirements.

(3) The Exchange would require its members to deliver a prospectus or product description to investors purchasing Shares prior to or concurrently with a transaction in such Shares and will note this prospectus delivery requirement in the Information Circular.

This approval order is conditioned on the Exchange's adherence to these representations.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**.

As noted above, the Commission previously found that the listing and trading of the Shares on NYSE and Amex, as applicable, is consistent with the Act. The Commission presently is not aware of any regulatory issue that should cause it to revisit that finding or would preclude the trading of the Shares on the Exchange pursuant to UTP. 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, accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for such Shares.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³⁴ that the proposed rule change (SR-NASDAQ-2007-002), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³⁵

Florence E. Harmon,
Deputy Secretary.

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BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55284; File No. SR-NASDAQ-2007-003]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Pricing for Nasdaq Members Using the Nasdaq Market Center

February 13, 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 29, 2007, The NASDAQ Stock Market LLC ("Nasdaq") filed with the Securities and Exchange Commission ("Commission") the proposed rule

change as described in Items I, II, and III below, which Items have been prepared substantially by Nasdaq. Pursuant to Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2)⁴ thereunder, Nasdaq has designated the proposed rule change as establishing or changing a member due, fee, or other charge, which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify the pricing for Nasdaq members using the Nasdaq Market Center ("Center"). Nasdaq will implement this proposed rule change on February 1, 2007. The text of the proposed rule change is available at Nasdaq, www.nasdaq.com, and the Commission's Public Reference Room.⁵

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 IV 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

This proposed rule change modifies the pricing schedule for trading securities through the Center. In addition to modifying the level of certain fees, the filing also adds language reflecting the fees to be charged for trading non-Nasdaq securities through the Center. Nasdaq anticipates that such trading will begin on February 12, 2007. The fee schedule reflects the volume of a member's use of the Center and also the ITS/CAES and Inet systems operated by Nasdaq and its

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ Changes to the proposed rule text are marked to the rule text that appears in the electronic Nasdaq Manual found at nasdaq.complinet.com/nasdaq/display/index.html.

³⁴ 15 U.S.C. 78s(b)(2).

³⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³³ 15 U.S.C. 78k-1(a)(1)(C)(iii).

affiliates as facilities of NASD, in determining applicable fees.⁶ The changes proposed by this filing relate to order execution fees for the Nasdaq Market Center and fees for routing to venues other than the New York Stock Exchange ("NYSE"). When the Center begins to route orders to NYSE, the changes will also apply to such routing.

Currently, members with an average daily volume through the Center in all securities during the month of (i) More than 30 million shares of liquidity provided, and (ii) more than 50 million shares of liquidity accessed and/or routed; or members with an average daily volume through the Center in all securities during the month of (i) more than 20 million shares of liquidity provided, and (ii) more than 60 million shares of liquidity accessed and/or routed, pay a fee of \$0.0027 per share executed when their orders access liquidity on the Center or are routed. Members with lower volumes pay a fee of \$0.0028 or \$0.003, depending on their volumes. The proposed rule change raises the volume thresholds needed to qualify for the \$0.0027 fee, such that it will be available to market participants that (i) Add more than 35 million shares of liquidity per day during the month and route or remove more than 55 million shares of liquidity per day during the month, or (ii) add more than 25 million shares of liquidity per day during the month and route or remove more than 65 million shares of liquidity per day during the month.

Currently, members adding more than 30 million shares of liquidity per day during the month receive a liquidity provider credit of \$0.0025 per share executed; members providing less liquidity receive a credit of \$0.002. The proposed rule change would raise the threshold needed to qualify for the \$0.0025 rebate to 35 million shares per day. However, the proposed rule change also introduces an intermediate credit of \$0.0022 per share executed for members that provide more than 20 million shares of liquidity during the month.

Nasdaq announced the fees reflected in this proposed rule change on November 30, 2006,⁷ as part of a market-

wide evolution in the pricing structure for non-Nasdaq listed securities and an effort by Nasdaq to adopt consistent pricing for all types of securities. Previously, the fees charged by Nasdaq and other venues for non-Nasdaq securities had been characterized by low execution and routing fees and no credits for liquidity providers. During the Fall of 2006, however, other markets began to adopt higher execution fees, coupled with liquidity provider credits, thereby moving towards a structure that had long been in effect for Nasdaq-listed securities. As of January 2, 2007, NASD filed fees for ITS/CAES and Inet that reflected this evolving pricing structure, and Nasdaq adopted comparable fees for Nasdaq-listed securities traded through the Center.⁸ However, the fees filed for January were intended as a one-month transition away from the previous structure, and therefore included lower thresholds to qualify for favorable pricing. In addition, the new higher thresholds reflecting the growing volumes of orders for NYSE-listed securities that are executed or routed through Inet and ITS/CAES, and are intended to encourage further usage.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁹ in general, and with Section 6(b)(4) of the Act,¹⁰ in particular, in that the proposed rule change provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Nasdaq operates or controls. Nasdaq believes that the fees are reasonably allocated among members based on their usage of the trading systems operated by Nasdaq, and are generally consistent with fees charged by other market centers for comparable services.¹¹

⁸ See Securities Exchange Act Release No. 55129 (January 18, 2007), 72 FR 3894 (January 26, 2007)(SR-NASD-2006-137). See also Securities Exchange Act Release No. 55137 (January 19, 2007), 72 FR 3452 (January 25, 2007) (SR-NASDAQ-2006-068).

⁹ 15 U.S.C. 78f.

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ NYSE Arca's fees are structured the same as Nasdaq's fees; Nasdaq's fees are generally the same or slightly lower. See <http://www.nyse.com/productservices/nysearcaequities/1157018931977.html>. BATS fees are also structured similarly, and are generally lower. See http://www.batstrading.com/subscriber_resources/BATS_Fee_Schedule_20070201.pdf. NYSE uses a different pricing model, but recently made changes to its fees that are reflected in Nasdaq's fees for routing to NYSE. See <http://www.nyse.com/Frameset.html?nyseref=&displayPage=/press/PressReleases.html> (November 30, 2006 press release). February 12, 2007 email from John Yetter, Nasdaq, to Joseph Morra, Commission.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹² and Rule 19b-4(f)(2) thereunder,¹³ in that the proposed rule change establishes or changes a member due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2007-003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2007-003. 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

¹² 15 U.S.C. 78s(b)(3)(A)(ii).

¹³ 17 CFR 240.19b-4(f)(2).

⁶ The consideration of volumes through ITS/CAES and Inet is a function of the phased transition of Nasdaq from an operator of NASD facilities to a separate national securities exchange. As such, NASD fees schedules will be amended to remove all references to Nasdaq shortly after the time when Nasdaq begins to trade non-Nasdaq exchange-listed securities as an exchange. NASD is submitting a comparable filing to modify fees for non-Nasdaq exchange-listed securities, which likewise considers trading volumes through the Center.

⁷ See Nasdaq Head Trader Alert #2006-199 (November 30, 2006) (available at <http://www.nasdaqtrader.com/trader/news/2006/headtraderalerts/hta2006-199.stm>).

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-2007-003 and should be submitted on or before March 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7-3093 Filed 2-22-07; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55299; File No. SR-NYSE-2007-01]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change to Amend Listing and Annual Fees Applicable to Investment Company Units, Currency Trust Shares, Commodity Trust Shares and streetTRACKS® Gold Shares

February 15, 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 24, 2007, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes as described in Items I, II and III below, which Items have been substantially prepared by the NYSE. The Commission is publishing this notice to solicit comments on the

proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The Exchange proposes to amend initial listing fees and annual fees applicable to Investment Company Units ("ICUs"), Currency Trust Shares, Commodity Trust Shares and streetTRACKS® Gold Shares in Section 902.07 of the NYSE Listed Company Manual ("Manual"), and to make conforming amendments to Sections 902.02 and 902.03 of the Manual. The text of the proposed rule change is available at the Commission's Public Reference Room, at the NYSE, and at its Web site: <http://www.nyse.com/Frameset.html?displayPage=http://apps.nyse.com/commdata/pub19b4.nsf/rulefilings?openview>.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In filings with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Listing Fees and Annual Fees in Section 902.07 of the Manual applicable to Investment Company Units listed under Section 703.16, and to apply such fees to Currency Trust Shares as defined in Exchange Rule 1300A, Commodity Trust Shares as defined in Exchange Rule 1300B, and streetTRACKS® Gold Shares as defined in Exchange Rule 1300. The Exchange also proposes to make conforming amendments to Sections 902.02 (General Information on Fees) and 902.03 (Fees for Listed Equity Securities) of the Manual.

Listing Fees

The Exchange currently imposes a flat Original Listing Fee of \$5,000 in connection with listing a series of Investment Company Units. The Exchange proposes to amend Section 902.07 to specify that a \$5,000 Listing Fee will also be imposed in connection

with the initial listing of each issue of Currency Trust Shares as defined in NYSE Rule 1300A and Commodity Trust Shares as defined in NYSE Rule 1300B. In addition, the proposed amendment reflects the \$5,000 Listing Fee applicable to the currently-listed streetTRACKS® Gold Trust.³ The Exchange has previously specified in its filings pursuant to Rule 19b-4⁴ under the Act with respect to Currency Trust Shares and Commodity Trust Shares that a \$5,000 initial listing fee applies,⁵ and the Exchange believes it is appropriate to include such fee in the Exchange's Listing Fee schedule in Section 902.07.

Annual Fees

The Exchange currently imposes a flat Annual Fee of \$2,000 for each series of ICUs listed on the Exchange. The Exchange has previously specified in its filings pursuant to Rule 19b-4 with respect to streetTRACKS® Gold Shares, Currency Trust Shares and Commodity Trust Shares that a \$2,000 annual fee applies,⁶ and the Exchange believes it is appropriate to include the Annual Fee, as proposed to be amended, in the Exchange's Listing Fee schedule in Section 902.07.

The proposed Annual Fee will be tiered based on the number of shares outstanding of each issue of ICUs, Currency Trust Shares or Commodity Trust Shares, and to streetTRACKS® Gold Shares as follows:

Number of Shares Outstanding (each issue)	Annual Fee
Less than 25 million	\$2,000
25 million up to 50 million	4,000
50 million up to 99,999,999	8,000
100 million up to 249,999,999 ..	15,000
250 million up to 499,999,999 ..	20,000
500 million and over	25,000

The Annual Fee will be billed each calendar quarter and will be apportioned based on the number of shares outstanding for an issue at the end of the preceding calendar quarter, as described below.

³ The Commission approved Exchange listing of streetTRACKS® Gold Shares in Securities Exchange Act Release No. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (SR-NYSE-2004-22). The Exchange indicated in such filing that the listing fee for the streetTRACKS® Gold Trust was \$5,000.

⁴ 17 CFR 240.19b-4.

⁵ See, e.g., Securities Exchange Act Release No. 54020 (June 20, 2006), 71 FR 36579 (June 27, 2006) (SR-NYSE-2006-35) (Listing of Six CurrencyShares Trusts).

⁶ *Id.*

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The Listing Fee schedule for ICUs is not being changed as to amount, but would be amended to include application of the \$5,000 Listing Fee to specified securities other than ICUs. The revised Annual Fee will be billed quarterly in arrears effective as of January 1, 2007. As such, billing for the first calendar quarter of 2007 will be based on the number of shares outstanding for an issue on March 30, 2007. For example, for an issue with 45 million shares outstanding on March 30, 2007, the Annual Fee payable for the quarter would be \$1,000 (\$4,000 Annual Fee divided by 4). If, at the end of the second calendar quarter of 2007, the number of shares outstanding for such issue increased to 55 million, the Annual Fee payable for such quarter would be \$2,000 (\$8,000 Annual Fee divided by 4). The Exchange believes it is appropriate to apply the revised Annual Fees to issuers of the specified securities as of January 1, 2007 to permit the Exchange to apply the fee in the same manner to all such issuers, including those listed on the Exchange in the first quarter of 2007.

The Exchange further proposes to amend Section 902.02 of the Manual (General Information on Fees) to specify: (1) That the fees set forth in Section 902 are also applicable to ICUs, streetTRACKS® Gold Shares, Currency Trust Shares and Commodity Trust Shares; (2) that Listing Fees are based on the number of shares issued and outstanding, with the exception of ICUs, streetTRACKS® Gold Shares, Currency Trust Shares, and Commodity Trust Shares; (3) that Annual Fees are calculated on a per share basis, with the exception of ICUs, streetTRACKS® Gold Shares, Currency Trust Shares, and Commodity Trust Shares; and (4) that the \$500,000 per year fee cap in Section 902.02 does not apply to ICUs, streetTRACKS® Gold Shares, Currency Trust Shares, and Commodity Trust Shares. Section 902.03 of the Manual (Fees for Listed Equity Securities) is proposed to be amended to specify that such section does not apply to streetTRACKS® Gold Shares, Currency Trust Shares, and Commodity Trust Shares (in addition to ICUs, closed-end funds, structured products, and short-term securities.)

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) of the Act⁷ that an exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its

members, issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve such proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form at <http://www.sec.gov/rules/sro.shtml>; or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-NYSE-2007-01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-NYSE-2007-01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will

post all comments on the Commission's Internet Web site at <http://www.sec.gov/rules/sro.shtml>. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-NYSE-2007-01 and should be submitted on or before March 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E7-3066 Filed 2-22-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55295; File No. SR-NYSEArca-2007-13]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to NYSE Arca Marketplace Trading Sessions

February 14, 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 February 6, 2007, NYSE Arca, Inc. ("NYSE Arca" or "Exchange"), through its wholly owned subsidiary NYSE Arca Equities, Inc. ("NYSE Arca Equities"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁷ 15 U.S.C. 78f(b)(4).

of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes, through NYSE Arca Equities, to update the list in NYSE Arca Equities Rule 7.34 of securities eligible to trade in one or more, but not all three, of the Exchange's trading sessions. The Exchange proposes to add to the list shares of certain Funds ("Shares") that are traded on NYSE Arca, L.L.C. ("NYSE Arca Marketplace"), the equities trading facility of NYSE Arca Equities, pursuant to unlisted trading privileges ("UTP"). The text of the proposed rule change is available on the Exchange's Web site (<http://www.nysearca.com>), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, 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

NYSE Arca Equities Rule 7.34 currently provides, in part, that the NYSE Arca Marketplace shall have three trading sessions each day: an Opening Session (1 a.m. Pacific Time ("PT") to 6:30 a.m. PT), a Core Trading Session (6:30 a.m. PT to 1 p.m. PT) and a Late Trading Session (1 p.m. PT to 5 p.m. PT), and that the Core Trading Session for securities described in NYSE Arca Equities Rules 5.1(b)(13), 5.1(b)(18), 5.2(j)(3), 8.100, 8.200, 8.201, 8.202, 8.203, 8.300, and 8.400 (each, a "Derivative Securities Product") shall conclude at 1:15 pm PT.⁵

NYSE Arca Equities Rule 7.34 includes a list of those securities which are eligible to trade in one or more, but not all three, of the Exchange's trading sessions.⁶ The Exchange maintains on its Internet Web site (<http://www.nysearca.com>) a list that identifies all securities traded on the NYSE Arca Marketplace that do not trade for the duration of each of the three sessions specified in NYSE Arca Equities Rule 7.34.

The Exchange proposes to add the following securities to these lists: (1) Ultra Basic Materials ProShares; (2) Ultra Consumer Goods ProShares; (3) Ultra Consumer Services ProShares; (4) Ultra Financials ProShares; (5) Ultra Health Care ProShares; (6) Ultra Industrials ProShares; (7) Ultra Oil & Gas ProShares; (8) Ultra Real Estate ProShares; (9) Ultra Semiconductors ProShares; (10) Ultra Technology ProShares; (11) Ultra Utilities ProShares; (12) UltraShort Basic Materials ProShares; (13) UltraShort Consumer Goods ProShares; (14) UltraShort Consumer Services ProShares; (15) UltraShort Financials ProShares; (16) UltraShort Health Care ProShares; (17) UltraShort Industrials ProShares; (18) UltraShort Oil & Gas ProShares; (19) UltraShort Real Estate ProShares; (20) UltraShort Semiconductors ProShares; (21) UltraShort Technology ProShares; and (22) UltraShort Utilities ProShares ("Funds").⁷

In addition, the Exchange proposes to change the names of the following securities on the lists to reflect their respective new names: (1) StreetTRACKS Dow Jones STOXX 50 Fund is renamed DJ STOXX 50® ETF; (2) streetTRACKS Dow Jones Euro STOXX 50 Fund is renamed DJ EURO 50® ETF; and (3) streetTRACKS Dow Jones Global Titans Fund is renamed SPDR® DJ Global Titans ETF. These securities are traded on the NYSE Arca Marketplace pursuant to UTP and are Investment Company Units, described in Exchange Rule 5.2(j)(3).

Trust Issued Receipts, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Partnership Units, and Paired Trust Shares, respectively. See Securities Exchange Act Release No. 54997 (December 21, 2006), 71 FR 78501 (December 29, 2006) (SR-NYSEArca-2006-77) (amending NYSE Arca Equities Rule 7.34).

⁶To make the list more transparent and easier to update, the list has been alphabetized and the number system removed.

⁷The Commission approved the trading of the Shares of the Funds on the NYSE Arca Marketplace pursuant to UTP in Securities Exchange Act Release No. 55125 (January 18, 2007), 72 FR 3462 (January 25, 2007) (SR-NYSEArca-2006-87).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Section 6(b)(5),⁹ in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition, 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 written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that such waiver is consistent with the protection of investors and the public interest because the proposed rule change should provide transparency and more clarity with respect to the trading hours eligibility of certain derivative securities products and should promote consistency in the trading halts of derivative securities.

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). In addition, Rule 19b-4(f)(6) requires an exchange to give 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 days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive the five-day pre-filing notice requirement in this case.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ NYSE Arca Equities Rules 5.1(b)(13), 5.2(j)(3), 8.100, 8.200, 8.201, 8.202, 8.203, 8.300, and 8.400 relate to Unit Investment Trusts, Investment Company Units, Portfolio Depositary Receipts,

The Commission notes that this filing does not change the trading hours of the Derivative Securities Products listed in NYSE Arca Equities Rule 7.34, but codifies trading hour sessions that have been established through other rule changes or through the use of the Exchange's generic listing standards pursuant to Rule 19b-4(e) under the Act. For these reasons, the Commission designates the proposed rule change as operative immediately.¹²

At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2007-13 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-NYSEArca-2007-13. 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 the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File number SR-NYSEArca-2007-13 and should be submitted by or before March 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7-3067 Filed 2-22-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55307; No. SR-OCC-2006-22]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Enhance Futures Clearing Services by Providing an Alternative Method for Effecting Gross Position Adjustments and Certain Trade Management Services

February 15, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder² notice is hereby given that on December 19, 2006, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(4)⁴ thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(4).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

OCC proposes to amend Rule 401 to accommodate an alternative method for effecting gross position adjustments and to enable members to update certain non-critical trade information. The text of the proposed rule change is available at <http://www.optionsclearing.com>, at the OCC, 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, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.⁵

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

OCC proposes to amend Rule 401 to accommodate an alternative method for effecting gross position adjustments and to enable members to update certain non-critical trade information.

Position Adjustments

Following the practice in the futures markets, OCC does not require that matched trade information submitted by a market identify each trade as opening or closing.⁶ If a market elects to submit trade information without opening or closing identifiers, OCC treats all transactions as opening transactions. A clearing member then submits gross position adjustment information at the end of the day to reduce its positions to reflect the actual open interest in its accounts. In order to calculate gross position adjustment information for each position in a series of futures contracts, a clearing member must: determine its net ending position in that series; calculate its gross ending position in that series on OCC's books;⁷

⁵ The Commission has modified the text of the summaries prepared by OCC.

⁶ OCC is aware that some markets may not have systems capable of making such identifications.

⁷ This step requires the clearing member to assume for each account that all trades defaulted to open, that OCC has received correct information on all trades, and that post-trade instructions affecting

¹² For purposes only of waiving the operative date of this proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

determine the gross position adjustment for that series by comparing the net ending position on its books with its calculation of the gross ending position on OCC's books; and submit gross position adjustments for each series in each account to OCC to ensure that OCC's records reflect the actual open interest.

Futures commission merchant ("FCM") clearing members find this process cumbersome and complex. These clearing members have requested OCC modify its systems to permit an alternative method of submitting gross position adjustment information. Specifically, they want to be able to advise OCC of the correct ending position for each series of futures contracts in their account(s) and have OCC compare the information to the current positions carried on OCC's books and effect the necessary position adjustment.⁸ OCC understands this method of effecting gross position adjustments is commonly used by other futures clearing organizations.

Only minor changes to the Interpretations and Policies to OCC's Rule 401 are necessary to support this alternative method of determining the actual open interest for futures. OCC proposes to amend Interpretation and Policy .01 to clarify that if there is an insufficient number of contracts in the account to effect the stated position adjustment, the adjustment will be applied only up to the number of available contracts and the remainder of the adjustment will not be affected.

Non-Critical Trade Information

FCM clearing members also have asked to use OCC's systems to update non-critical trade information, a practice that is customary within the futures industry. Non-critical trade information includes customer account or other identifying information or codes. Only minor changes to Rule 401 are required to accommodate this request. OCC is proposing to add a second interpretation to Rule 401 to provide that its systems may be used for such purposes provided that such updates are not in contravention of any rule of the exchange or market on which the trade was executed.

OCC will not implement this rule change until the requisite systems are

the segregated futures account were processed correctly.

⁸Typically, a firm advises the clearinghouse of the correct ending long position in each series, and the clearinghouse adjusts both long and short positions in the clearing member's segregated futures account to ensure its books reflect such position and remain in balance.

available, which is expected to be in or about the first quarter of 2007.

2. Statutory Basis

The proposed rule change is consistent with Section 17A of the Act,⁹ as amended, because it promotes the prompt and accurate clearance and settlement of transactions in derivatives contracts by providing mechanisms that are designed to ensure OCC's books and records contain accurate information regarding actual open interest in futures contracts and because OCC is able to provide its FCM clearing members with services that are standard in the futures industry.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁰ and Rule 19b-4(f)(4)¹¹ thereunder because the rule does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service.

At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

⁹ 15 U.S.C. 78q-1.

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(4).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-OCC-2006-22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-OCC-2006-22. 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 filings also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at <http://www.optionsclearing.com>. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OCC-2006-22 and should be submitted on or before March 16, 2007.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹²

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7-3071 Filed 2-22-07; 8:45 am]

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¹² 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55301; File No. SR-Phlx-2007-08]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit the Listing and Trading of Quarterly Options Series

February 15, 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 February 9, 2007, the Philadelphia Stock Exchange, Inc. (“Exchange” or “Phlx”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. Phlx has designated this proposal as noncontroversial under Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend its rules, including Rule 1000 (“Applicability, Definitions and References”), Rule 1012 (“Series of Options Open for Trading”), Rule 1000A (“Applicability and Definitions”), Rule 1001A (“Position Limits”), and Rule 1101A (“Terms of Option Contracts”), to permit the listing and trading of options series that may be opened for trading on any business day and expire at the close of business on the last business day of a calendar quarter (“Quarterly Options” or “Quarterly Options Series”). The pilot will commence the day the Exchange first initiates trading in a Quarterly Options Series and will continue through July 24, 2007 (the “Phlx Pilot”).⁵

The text of the proposed rule change is available on the Exchange’s Web site (http://www.phlx.com/exchange/phlx_rule_fil.html), at the Exchange’s principal office, 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 the proposed rule change is to amend the Exchange’s Rules, including Phlx Rules 1000, 1012, 1000A, 1001A, and 1101A, to establish the Phlx Pilot, which would accommodate the listing of Quarterly Options Series that would expire at the close of business on the last business day of a calendar quarter.⁶

Quarterly Options Series could be opened on any approved options class⁷

Exchange. See Securities Exchange Act Release No. 54113 (July 7, 2006), 71 FR 39694 (July 13, 2006) (SR-ISE-2006-24) (order approving proposal). In addition, the Chicago Board Options Exchange and NYSE Arca have also filed substantially similar proposals. See Securities Exchange Act Release Nos. 54123 (July 11, 2006), 71 FR 40558 (July 17, 2006) (SR-CBOE-2006-65) (notice of filing and immediate effectiveness) and 54166 (July 18, 2006), 71 FR 42151 (July 25, 2006) (SR-NYSEArca-2006-45) (notice of filing and immediate effectiveness). The Phlx proposal also incorporates certain changes made by CBOE to its version of the Quarterly Options Series pilot (e.g., limiting Quarterly Options Series to five strike prices above or below the value of an index). See Securities Exchange Act Release No. 54762 (November 16, 2006), 71 FR 67663 (November 22, 2006) (SR-CBOE-2006-93) (order approving proposal).

⁶ In 1994, the Exchange was granted SEC approval to list and trade narrow-based index options that expire at the end of each quarter on several Exchange indexes: Gold and Silver (symbol “XAU”); Utility (“UTY”); Bank (“BKX”); National Over-the-Counter (“XOC”); and Value Line (“VLE”). See Securities Exchange Act Release No. 34234 (June 17, 1994), 59 FR 32729 (June 24, 1994) (SR-Phlx-93-45). These proved to be of limited use as quarterly options and in fact the three remaining options (XAU, UTY, and BKX) are currently listed and trading only on monthly expiration cycles.

⁷ Quarterly Options Series may be opened in options on indexes or options on ETFs that satisfy the applicable listing criteria under Phlx rules.

on a business day (“Quarterly Options Opening Date”) and would expire at the close of business on the last business day of a calendar quarter (“Quarterly Options Expiration Date”). The Exchange would list series that expire at the end of the calendar quarters of this calendar year.

Quarterly Options Series listed on approved options classes would be P.M.-settled and, in all other respects, would settle in the same manner as do the monthly expiration series in the same options class.

The proposed rule change would allow the Exchange to open up to five currently listed options classes that are options on exchange traded funds (“ETFs”). The strike price for each series would be fixed at a price per share, with at least two strike prices above and two strike prices below the approximate value of the underlying security at about the time that a Quarterly Options Series is opened for trading on the Exchange. The Exchange may list strike prices for a Quarterly Options Series on ETFs that are within \$5 from the closing price of the underlying security on the preceding trading day.

With respect to Quarterly Options Series based on an underlying index, the proposed rule change would allow the Exchange to list not more than five strike prices above and not more than five strike prices below the value of the underlying index. The Exchange may list additional Quarterly Options Series strike prices on indexes above the value of the underlying index provided that the total number of strike prices above the value of the underlying index is no greater than five. Similarly, the Exchange may list additional Quarterly Options Series strike prices on indexes below the value of the underlying index provided that the total number of strike prices below the value of the underlying index is no greater than five.

The proposal would permit the Exchange to open for trading additional Quarterly Options Series of the same class when the Exchange deems it necessary to maintain an orderly market, to meet customer demand, or when the current market price of the underlying security or index moves substantially from the exercise prices of those Quarterly Options Series that already have been opened for trading on the Exchange. In addition, the exercise price of each Quarterly Options Series on an underlying index would be required to be reasonably related to the current index value of the index at or about the time such series of options were first opened for trading on the Exchange. For purposes of the Phlx

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ The Phlx proposal is substantially similar to a proposal by the American Stock Exchange LLC to list Quarterly Options Series on a pilot basis through July 24, 2007. See Securities Exchange Act Release No. 54137 (July 12, 2006), 71 FR 41283 (July 20, 2006) (SR-Amex-2006-67) (notice of filing and immediate effectiveness). The Commission has approved a substantially similar Quarterly Options Series pilot on behalf of the International Securities

Pilot, the term “reasonably related to the current index value of the underlying index” means that the exercise price is within 30 per cent of the current index value. The Exchange would also be permitted to open for trading additional Quarterly Options Series on an underlying index that are more than 30 per cent away from the current index value, provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers.⁸ Market-makers trading for their own account shall not be considered when determining customer interest under this provision.

Because monthly options series expire on the third Friday of their expiration month, a Quarterly Options Series (which would expire on the last business day of the quarter) could never expire in the same week in which a monthly options series in the same class expires. That is not the case, however, for Short Term Option Series. Quarterly Options Series and Short Term Option Series on the same options class could potentially expire concurrently under the proposal.⁹ Therefore, to avoid any confusion in the marketplace, the proposal stipulates that the Exchange may not list a Short Term Option Series that expires at the end of the day on the same day as a Quarterly Options Series in the same class expires. In other words, the proposed rules would not permit the Exchange to list a P.M.-settled Short Term Option Series on an ETF or an index that would expire on a Friday that is the last business day of a calendar quarter if a Quarterly Options Series on that ETF or index were scheduled to expire on that day.

The proposed rules would, however, permit the Exchange to list an A.M.-settled Short Term Option Series and a P.M.-settled Quarterly Options Series in the same options class that both expire on the same day (*i.e.*, on a Friday that is the last business day of the calendar quarter). The Exchange believes that the concurrent listing of an A.M.-settled Short Term Option Series and a P.M.-settled Quarterly Options Series on the same underlying ETF or index that expire on the same day would not tend to cause the same confusion as would P.M.-settled short term and quarterly series in the same options class and

would provide investors with an additional hedging mechanism.

Additionally, the interval between strike prices on Quarterly Options Series would be the same as the interval for strike prices for series in the same options class that expires in accordance with the normal monthly expiration cycles.

The Exchange believes that Quarterly Options Series would provide investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. At the same time, the Exchange is cognizant of the need to be cautious in introducing a product that can increase the number of outstanding strike prices. For that reason, the Exchange is proposing a limited pilot program for Quarterly Options Series. Under the terms of the Phlx Pilot, the Exchange could select up to five option classes on which Quarterly Options Series may be opened on any Quarterly Options Opening Date. The Exchange would also be allowed to list those Quarterly Options Series on any options class that is selected by another securities exchange with a similar Pilot Program under its rules. The Exchange believes that limiting the number of options classes in which Quarterly Options Series may be opened would help to ensure that the addition of the new series through the Phlx Pilot will have only a negligible impact on the Exchange’s and the Option Price Reporting Authority’s (“OPRA”) quoting capacity. Also, limiting the term of the Pilot Program to a finite period will allow the Exchange and the Commission to determine whether the program should be extended, expanded, and/or made permanent.

If the Exchange were to propose an extension or an expansion of the pilot, or were to propose to make the Phlx Pilot permanent, along with any filing proposing such amendments, the Exchange would submit a Phlx Pilot report (“Report”) that would provide an analysis of the pilot program covering the entire period during which the Phlx Pilot was in effect. The Report would include, at a minimum: (1) Data and written analysis on the open interest and trading volume in the classes for which Quarterly Options Series were opened; (2) an assessment of the appropriateness of the options classes selected for the Phlx Pilot; (3) an assessment of the impact of the Phlx Pilot on the capacity of Phlx, OPRA, and on market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the

operation of the Phlx Pilot and how Phlx addressed such problems; (5) any complaints that the Phlx received during the operation of the Phlx Pilot and how the Phlx addressed them; and (6) any additional information that would assist in assessing the operation of the Phlx Pilot. The Report must be submitted to the Commission at least 60 days prior to the expiration date of the Phlx Pilot.

Alternatively, at the end of the Phlx Pilot, if the Exchange determines not to propose an extension or an expansion of the Phlx Pilot, or if the Commission determines not to extend or expand the Phlx Pilot, the Exchange would no longer list any additional Quarterly Options Series and would limit all existing open interest in Quarterly Options Series to closing transactions only.

Finally, the Exchange represents that it has the necessary systems capacity to support new options series that will result from the introduction of Quarterly Options Series.

2. Statutory Basis

The Exchange believes that its proposal to list and trade Quarterly Options Series will satisfy institutional demand for such options and provide additional flexibility and risk management and hedging tools to investors. For these reasons, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act¹¹ in particular, in that it is 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 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

No written comments were either solicited or received.

⁸ The “within 30 per cent” requirement is proposed specifically for the Phlx Pilot and is not otherwise in the Exchange’s options rules. See Rule 1000 *et seq.*

⁹ The Exchange does not currently have any Short Term Option Series listed for trading but believes it is prudent to leave the Short Term Option concept in its proposed rule text so that all of the quarterly option pilots are similar.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78 f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act¹² and subparagraph (f)(6)(iii) of Rule 19b-4 thereunder¹³ because the foregoing proposed rule change (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest.¹⁴

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to waive the operative delay 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 and designate the proposed rule change immediately operative, so that the Exchange can have quarterly options pilot rules that are similar to that of other options exchanges. The Exchange believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposal is substantially identical to the CBOE's pilot program for quarterly option series, previously published for comment¹⁵ and approved by the Commission,¹⁶ and is substantially similar to existing pilot programs currently in place at other SROs.¹⁷ Thus, Phlx's proposal raises no new issues of regulatory concern. Moreover, waiving the operative delay will allow

Phlx to immediately compete with other exchanges that list and trade quarterly options under similar programs, and consequently will benefit the public. Therefore, the Commission has determined to waive the 30-day delay and allow the proposed rule change to become operative upon filing.¹⁸

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-Phlx-2007-08 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-Phlx-2007-08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commissions Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in

the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2007-08 and should be submitted on or before March 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7-3070 Filed 2-22-07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55305; File No. SR-Phlx-2006-65]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment Nos. 2 and 3 Thereto Relating to Options on the Russell 2000® Index

February 15, 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 October 31, 2006 the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. On November 22, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. On January 24, 2007, the Exchange filed Amendment No. 2 to the proposed rule change.³ On February 7, 2007, the Exchange filed Amendment No. 3 to the proposed rule change. This order provides notice of the proposed rule change as modified by Amendment Nos. 2 and 3 and approves the proposed rule change as amended on an accelerated basis.

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 2 superceded Amendment No. 1 in its entirety.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ The Exchange provided the Commission with pre-filing notice of the proposal, as required by Rule 19b-4(f)(6)(iii).

¹⁵ See Securities Exchange Act Release Nos. 54123 (July 11, 2006), 71 FR 40558 (July 17, 2006) (SR-CBOE-2006-65) (notice of filing and immediate effectiveness for CBOE's quarterly option series pilot program).

¹⁶ See Securities Exchange Act Releases No. 54762 (November 16, 2006), 71 FR 67663 (November 22, 2006) (SR-CBOE-2006-93) (order approving certain amendments to CBOE's quarterly option series pilot program).

¹⁷ See *supra* note 5.

¹⁸ For purposes only of waiving the operative delay of this proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Rules 1079 (FLEX Index and Equity Options), 1001A (Position Limits), and 1101A (Terms of Option Contracts) so that it can list and trade cash-settled, European-style options, including FLEX options and LEAPS,⁴ on the Russell 2000® Index of the Frank Russell Company ("Russell"), namely full value options ("Full Value Russell Options") and one-tenth value options ("Reduced Value Russell Options") on the Russell 2000® Index.

Amended Phlx Rule 1001A would establish position limits for the Full Value Russell Options of 50,000 contracts total on either side of the market, with 30,000 contracts in the nearest expiration month, and position limits for the Reduced Value Russell Options of 500,000 contracts total on either side of the market, with 300,000 contracts total in the nearest expiration month. Amended Phlx Rule 1079 would establish similar position limits for FLEX Full Value Russell Options and FLEX Reduced Value Russell Options. Amended Phlx Rule 1101A would establish that Full Value Russell Options and the Reduced Value Russell Options may be traded on the Exchange until 4:15 p.m. each business day, and that Phlx may list \$2.50 or higher strike price intervals for options on the Russell 2000® Index if the strike price is less than \$200. The text of the proposed rule change is available at the Phlx, the Commission's Public Reference Room, and www.phlx.com/exchange/phlx_rule_fil.html.

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 III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

⁴ FLEX options are customized or flexible index and equity options and LEAPS are Long-term Equity Anticipation Securities or long term options series. See Phlx Rules 1079, 1012 and 1101A. The Exchange does not anticipate listing reduced value LEAPS on the Russell 2000® Index.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Rules 1079 (FLEX Index and Equity Options), 1001A (Position Limits), and 1101A (Terms of Option Contracts) to list and trade on the Exchange cash-settled, European-style index options on the full and reduced values of the Russell 2000® Index.⁵

The Russell 2000® Index is a capitalization-weighted index containing the smallest 2000 companies in the Russell 3000® Index, which includes the largest 3,000 companies incorporated in the United States. All index components are traded on the New York Stock Exchange LLC ("NYSE"), the American Stock Exchange LLC ("Amex"), and/or The NASDAQ Stock Market LLC ("Nasdaq"). Options on the Russell 2000® Index and other Russell indexes currently trade on the Chicago Board Options Exchange, Inc. ("CBOE") and other options exchanges.⁶ The Exchange also is

⁵ Although Exchange Rule 1009A has generic listing standards for options on broad-based indexes that apply to options on the Russell 2000® Index, see Securities Exchange Act Release No. 54158 (July 17, 2006), 71 FR 41853 (July 24, 2006) (SR-Phlx-2006-17), the proposed rule change is necessary to establish, among other things, larger position limits on such Russell products.

⁶ See Securities Exchange Act Release Nos. 49388 (March 10, 2004), 69 FR 12720 (March 17, 2004) (SR-CBOE-2003-51) (approving listing and trading on CBOE of options, including LEAPS, on the Russell Top 200® Index, Russell Top 200® Growth Index, and the Russell Top 200® Value Index); 48591 (October 2, 2003), 68 FR 58728 (October 10, 2003) (SR-CBOE-2003-17) (approving listing and trading on CBOE of options, including LEAPS, on the Russell 3000® Index, Russell 3000® Value Index, Russell 3000® Growth Index, Russell 2000® Value Index, Russell 2000® Growth Index, Russell 1000® Index, Russell 1000® Value Index, Russell 1000® Growth Index, Russell MidCap® Index, Russell MidCap® Value Index, and Russell MidCap® Growth Index); and 31382 (October 30, 1992), 57 FR 52802 (November 5, 1992) (SR-CBOE-92-02) (approving listing and trading on CBOE of options, including LEAPS, on the Russell 2000® Index). See also Securities Exchange Act Release Nos. 51619 (April 27, 2005), 70 FR 22947 (May 3, 2005) (SR-ISE-2005-09) (order approving listing and trading on the International Securities Exchange ("ISE") of options, including LEAPS, on the Russell 3000® Index, Russell 3000® Value Index, Russell 3000® Growth Index, Russell 2500® Index, Russell 2500® Value Index, Russell 2500® Growth Index, Russell 2000® Index, Russell 2000® Value Index, Russell 2000® Growth Index, Russell 1000® Index, Russell 1000® Value Index, Russell 1000® Growth Index, Russell Top 200® Index, Russell Top 200® Value Index, Russell Top 200® Growth Index, Russell MidCap® Index, Russell MidCap® Value Index, Russell MidCap® Growth Index, Russell Small Cap® Completeness Index, Russell Small Cap® Completeness Value Index, and Russell Small Cap® Completeness Growth Index); and 53191 (January 30, 2006), 71 FR 6111 (February 6, 2006) (SR-Amex-2005-061) (order approving

proposing to be able to list and trade long-term options on the Russell 2000® Index.⁷

Index Design and Composition

The Russell 2000® Index is designed to be a comprehensive representation of the investable U.S. equity market. The index is capitalization-weighted and includes only common stocks belonging to corporations domiciled in the United States that are traded on NYSE, Nasdaq, or Amex. Stocks are weighted by their "available" market capitalization, which is calculated by multiplying the primary market price by the "available" shares; that is, total shares outstanding less corporate cross-owned shares; shares owned by Employee Stock Ownership Plans and Leveraged Employee Stock Ownership Plans that comprise 10% or more of shares outstanding; shares that are part of unlisted share classes; shares held by an individual, a group of individuals acting together, or a corporation not in the index that owns 10% or more of the shares outstanding; and shares subject to Initial Public Offering lock-ups. The Russell 2000® Index is designed to measure the performance of the 2,000 smallest companies in the Russell 3000® Index, representing approximately 8% of the investable U.S. equity market.⁸

All equity securities listed on NYSE, Amex, or Nasdaq are considered for inclusion in the Russell 2000® Index, with the following exceptions: (1) Stocks trading at less than \$1.00 per share on May 31 of each year; (2) stocks of non-U.S. companies; (3) preferred and convertible preferred stocks; (4) redeemable shares; (5) participating preferred stocks; (6) warrants and rights; (7) trust receipts; (8) royalty trusts; (9) limited liability companies; (10) Bulletin Board and Pink Sheet stocks; (11) closed-end investment companies; (12) limited partnerships; and (13) foreign stocks. As a special exception, Berkshire Hathaway is also excluded. The Russell 2000® Index is derived from the smallest 2000 companies in the Russell 3000® Index and represents approximately 8% of the investable U.S.

listing and trading on the Amex of options, including LEAPS, on the Russell 1000® Index, Russell 1000® Growth Index, Russell 1000® Value Index, Russell 2000® Index, Russell 2000® Growth Index, Russell 2000® Value Index, Russell 3000® Index, Russell 3000® Growth Index, Russell 3000® Value Index, Russell MidCap® Index, Russell MidCap® Growth Index, Russell MidCap® Value Index, and Russell Top 50® Index).

⁷ Per subsection (b)(iii) of Phlx Rule 1101A, the Exchange may list, with respect to any class of stock index options, series of options having up to 60 months to expiration.

⁸ Additional information about the Russell indexes can also be found at <http://www.russell.com/us/indexes/us/definitions.asp>.

equity market.⁹ All of these stocks are "NMS Stocks" as defined in Rule 600 of Regulation NMS under the Act.

As of June 30, 2006, the stocks comprising the Russell 2000® Index had an average market capitalization of \$641.69 million, ranging from a high of \$2.33 billion (Maverick Tube Corp.) to a low of \$305.29 million (Tiens Biotech Group). The number of available shares outstanding averaged 35.80 million, ranging from a high of 482.72 million (Conexant Systems Inc.) to a low of 1.26 million (Seaboard Corp.). The six-month average daily trading volume for Russell 2000® Index components was 461,255 shares per day, ranging from a high of 20.37 million shares per day (Conexant Systems Inc.) to a low of 2,067 shares per day (Arden Group). Stocks that averaged less than 50,000 shares per day for the previous six months accounted for 12% of the index weight of the Russell 2000® Index. Additionally, over 56% of Russell 2000® Index components have options listed on them, representing over 94% of the index weight. The Russell 2000® Index has a total capitalization of approximately \$1.6 trillion as of December 18, 2006.

Index Calculation and Index Maintenance

The value of the Russell 2000® Index (both full and reduced value) is currently calculated by Reuters on behalf of Russell and is disseminated every 15 seconds during regular Phlx trading hours to market information vendors via the Options Price Reporting Authority ("OPRA").

The methodology used to calculate the value of the Russell 2000® Index is similar to the methodology used to calculate the value of other well known market-capitalization-weighted indexes, reflecting the total market value of the component stocks relative to a particular base period and is computed by dividing the total market value of the companies in the index by the index divisor. The divisor is adjusted periodically to maintain consistent measurement of the index. The base index value of the Russell 2000® Index was \$135.00 on the December 31, 1986 base index date, and the value of the Russell 2000® Index on December 31, 2005 was \$673.22.

In recent years, the values of the Russell 2000® Index has increased significantly. As a result, the premium for options on the Russell 2000® Index

has also increased, causing these index options to trade at a level that may be uncomfortably high for retail investors. Therefore, the Exchange also proposes to trade Reduced Value Russell Options. The Exchange believes that listing reduced value options would attract a greater source of customer business than if it listed only full value options on the Russell 2000® Index. The Exchange further believes that listing reduced value options would provide an opportunity for investors to hedge, or speculate on, the market risk associated with the stocks comprising the Russell 2000® Index and use this trading vehicle while extending a smaller outlay of capital. The Exchange believes that this should attract additional investors and, in turn, create a more active and liquid trading environment.¹⁰

Full value and reduced value options on the Russell 2000® Index would expire on the Saturday following the third Friday of the expiration month ("Expiration Saturday"). Trading in options on the Russell 2000® Index would normally cease at 4:15 p.m. Eastern Standard Time ("EST") on the Thursday preceding an Expiration Saturday. The exercise settlement value at expiration of each new index option would be calculated by Reuters on behalf of Russell, based on the opening prices of the index's component securities on the last business day prior to expiration ("Settlement Day").¹¹ The Settlement Day is normally the Friday preceding Expiration Saturday. If a component security in a Russell index does not trade on Settlement Day, the last reported sales price in the primary market from the previous trading day would be used to calculate both full and reduced settlement values. Settlement values for the full and reduced value options on the Russell 2000® Index would be disseminated by OPRA.

The Russell 2000® Index is monitored and maintained by Russell, which is responsible for making all necessary adjustments to the index to reflect component deletions, share changes, stock splits, stock dividends (other than ordinary cash dividends), and stock price adjustments due to restructuring, mergers, or spin-offs involving the underlying components. Some corporate actions, such as stock splits and stock

dividends, require simple changes to the available shares outstanding and the stock prices of the underlying components. Other corporate actions, such as share issuances, change the market value of an index and require the use of an index divisor to effect adjustments.

The Russell 2000® Index is re-constituted annually on June 30, based on prices and available shares outstanding as of the preceding May 31. New index components are added only as part of the annual re-constitution, after which, should a stock be removed from an index for any reason, it could not be replaced until the next re-constitution.

The Exchange represents that, although it is not involved in the maintenance of any of the Russell indexes, it would monitor the Russell 2000® Index on a quarterly basis and notify the Commission's Division of Market Regulation ("Division") by filing a proposed rule change pursuant to Rule 19b-4 if: (i) The number of securities in the index drops by one-third or more; (ii) 10% or more of the weight of the index is represented by component securities having a market value of less than \$ 75 million; (iii) less than 80% of the weight of the index is represented by component securities that are eligible for options trading pursuant to Phlx Rule 1009; (iv) 10% or more of the weight of the index is represented by component securities trading less than 20,000 shares per day; or (v) the largest component security in the index accounts for more than 15% of the weight of the index, or the largest five components in the aggregate account for more than 50% of the weight of the index.

The Exchange also would notify the Division immediately if Russell ceases to maintain or calculate the Russell 2000® Index on which Phlx is proposing to list and trade options, or if the full or reduced value of the Russell 2000® Index is not disseminated every 15 seconds by a widely available source. If the Russell 2000® Index ceases to be maintained or calculated, or its values are not disseminated every 15 seconds by a widely available source, the Exchange would not list any additional series for trading and would limit all transactions in options on that index to closing transactions only for the purpose of maintaining a fair and orderly market and protecting investors.

Contract Specifications

The proposed contract specifications for full and reduced value options on the Russell 2000® Index are based on the contract specifications of similar

⁹ The Russell 3000® Index in turn measures the performance of the 3,000 largest U.S. companies based on total market capitalization, representing approximately 98% of the investable U.S. equity market.

¹⁰ The Exchange believes that reduced value options on certain Russell indexes have generated considerable interest from investors, as measured, for example, by the robust trading volume of reduced value options on the Russell 2000® Index that traded on CBOE and the ISE in 2005 (total 320,876 contracts).

¹¹ The aggregate exercise value of the option contract is calculated by multiplying the index value by the index multiplier, which is 100.

options currently listed on CBOE, ISE and Amex.¹² The Russell 2000® Index is a broad-based index, as defined in Phlx Rule 1000A(b)(11). Full and reduced value options on the Russell 2000® Index would be European-style and a.m. cash-settled. The Exchange's standard trading hours for index options (9:30 a.m. to 4:15 p.m. EST), as set forth in Commentary .01 to Phlx Rule 1101A, would apply to options on the Russell 2000® Index (both full and reduced value). Exchange rules that apply to the trading of options on broad-based indexes also would apply to both the full value and reduced value options on the Russell 2000® Index.¹³ The trading of these options also would be subject to, among others, Exchange rules governing margin requirements and trading halt procedures for index options.

For Full Value Russell Options, the Exchange proposes to establish in its Rule 1001A(a)(iv) an aggregate position limit of 50,000 contracts on the same side of the market, provided that no more than 30,000 of such contracts are in the nearest expiration month series. Full Value Russell Options contracts would be aggregated with Reduced Value Russell Options contracts, where ten Reduced Value Russell Options contracts would equal one Full Value Russell Options contract.¹⁴ These limits are identical to the limits applicable to options based on the Russell 2000® Index that currently trade on CBOE.¹⁵

Additionally, Commentary .01 to Phlx Rule 1001A provides that under certain circumstances index options positions may be exempted from established position limits for each contract "hedged" by an equivalent dollar amount of the underlying component securities. Furthermore, Commentary .02 provides that member organizations may receive exemptions of up to two times the applicable position limit where the index options positions are in proprietary accounts used for the purpose of facilitating orders for customers of those member organizations. See Phlx Rule 1001A.

The Exchange proposes to apply existing index margin requirements for the purchase and sale of options on the Russell 2000® Index. See Phlx Rule 722.

The Exchange proposes to set strike price intervals for index options of at

least \$2.50 when the strike price of full or reduced value options on the Russell 2000® Index is below \$200, and at least \$5.00 strike price intervals otherwise. The minimum tick size for series trading below \$3 would be \$0.05, and for series trading at or above \$3 would be \$0.10. See Phlx Rule 1034 and proposed Rule 1101A.

The Exchange proposes to list series of Full Value Russell Options and Reduced Value Russell Options having up to three consecutive expiration months, with the shortest-term series initially having no more than two months to expiration (consecutive month series), and may designate one expiration cycle for each class that shall consist of four calendar months occurring at three-month intervals (cycle month series). Thus, the Exchange intends to initially list and trade options on the Russell 2000® Index in the following six series: February, March, April, June, September and December. In addition, LEAPS having up to 60 months to expiration may be traded.¹⁶ See Phlx Rule 1101A. The trading of long-term options series on the Russell 2000® Index would be subject to the same rules that govern all the Exchange's index options, including sales practice rules, margin requirements, and trading rules.

All of the specifications and calculations for Reduced Value Russell Options would be the same as those used for the Full Value Russell Options with position limits adjusted accordingly for Reduced Value Russell Options. The reduced value options would trade independently of, and in addition to, the full value options. Options on the Russell 2000® Index would be subject to the same rules that presently govern all Exchange index options, including sales practice rules, margin requirements, trading rules, and position and exercise limits.

Surveillance and Capacity

The Exchange represents that it has an adequate surveillance program in place for options on the Russell 2000® Index and intends to apply those same procedures that it applies to the Exchange's other index options. Additionally, the Exchange is a member of the Intermarket Surveillance Group ("ISG") under the Intermarket Surveillance Group Agreement, dated June 20, 1994. The members of the ISG include all of the national securities exchanges. The ISG members work together to coordinate surveillance and share information regarding the stock

and options markets. In addition, the major futures exchanges are affiliated members of the ISG, which allows for the sharing of surveillance information for potential intermarket trading abuses.

The Exchange also represents that it has the necessary systems capacity to support the new options series that would result from the introduction of full value and reduced value options on the Russell 2000® Index, including full value LEAPS on the Russell 2000® Index. The Exchange has provided the Commission with system capacity information to support this representation.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁸ in particular, in that it will permit trading in options on the Russell 2000® Index pursuant to rules designed to prevent fraudulent and manipulative practices 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

No written comments were either solicited or received.

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 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-Phlx-2006-65 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission,

¹² See supra note 6.

¹³ See generally Phlx Rules 1000A through 1106A (Rules Applicable to Trading of Options on Indices) and Phlx Rules 1000 through 1093 (Options Rules of the Phlx).

¹⁴ The same limits that apply to position limits would apply to exercise limits for these products. See Phlx Rule 1002A.

¹⁵ See CBOE Rule 24.4(a).

¹⁶ The Exchange is not proposing to list reduced-value LEAPS on the Russell 2000® Index.

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2006-65. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2006-65 and should be submitted on or before March 16, 2007.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁹ In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,²⁰ which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

The Commission notes that it previously has found that the listing and trading on the CBOE, the ISE and the Amex of options on the Russell 2000®

Index, and those exchanges' position and exercise limits applicable to such options, are consistent with the Act.²¹ The Phlx has proposed substantially similar contract specifications for these options, as well as identical position and exercise limits for these options. The Commission finds nothing that would cause it to revisit those earlier findings or prohibit the listing and trading of these options on the Phlx.

As noted above, the Russell 2000® Index is designed to represent a broad segment of the U.S. equity securities market. Furthermore, the Phlx has represented that it would notify the Commission if: (i) The number of securities in the index drops by one-third or more; (ii) 10% or more of the weight of the index is represented by component securities having a market value of less than \$75 million; (iii) less than 80% of the weight of the index is represented by component securities that are eligible for options trading pursuant to Phlx Rule 1009; (iv) 10% or more of the weight of the index is represented by component securities trading less than 20,000 shares per day; or (v) the largest component security in the index accounts for more than 15% of the weight of the index, or the largest five components in the aggregate account for more than 50% of the weight of the index.

In approving this proposal, the Commission has specifically relied on the following representations made by the Exchange:

1. The Exchange would notify the Division immediately if Russell ceases to maintain or calculate the Russell 2000® Index on which Phlx is proposing to list and trade options, or if the full or reduced value of the Russell 2000® Index is not disseminated every 15 seconds by a widely available source. If the Russell 2000® Index ceases to be maintained or calculated, or its values are not disseminated every 15 seconds by a widely available source, the Exchange would not list any additional series for trading and would limit all transactions in options on that index to closing transactions only for the purpose of maintaining a fair and orderly market and protecting investors.

2. The Exchange has an adequate surveillance program in place for the proposed options on the Russell 2000® Index.

3. The additional quote and message traffic that will be generated by listing and trading the proposed options on the Russell 2000® Index, including full value LEAPS on the Russell 2000®

Index, will not exceed the Exchange's current message capacity allocated by the Independent System Capacity Advisor.

The Commission further notes that, in approving this proposal, it relied on the Exchange's discussion of how Russell currently calculates the Russell 2000® Index. If the manner in which the Russell 2000® Index is calculated were to change substantially, this approval order might no longer be effective.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**. Options on the Russell 2000® Index already have been approved for listing and trading on other exchanges and are governed by contract specifications that are substantially similar to those proposed by the Phlx. Therefore, accelerating approval of the Exchange's proposal should benefit investors by creating, without undue delay, additional competition in the market for options on the Russell 2000® Index.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²² that the proposed rule change (SR-Phlx-2006-65), as modified by Amendment Nos. 2 and 3, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²³

Nancy M. Morris,
Secretary.

[FR Doc. E7-3089 Filed 2-22-07; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10811]

Illinois Disaster # IL-00007

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 Illinois (FEMA-1681-DR), dated February 9, 2007.

Incident: Severe Winter Storm.

Incident Period: November 30, 2006 through December 1, 2006.

Effective Date: February 9, 2007.

Physical Loan Application Deadline Date: April 10, 2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business

¹⁹ In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁰ 15 U.S.C. 78f(b)(5).

²¹ See Securities Exchange Act Release Nos. 31382, 51619 and 53191, *supra* at note 6.

²² 15 U.S.C. 78s(b)(2).

²³ 17 CFR 200.30-3(a)(12).

Administration, Processing and Disbursement Center, 14925 Kingsport Road Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, US 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 February 9, 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:

Bond, Calhoun, Christian, De Witt, Fayette, Jersey, Logan, Macon, Macoupin, Madison, Mclean, Monroe, Montgomery, Piatt, Saint Clair, Sangamon, Shelby, Woodford.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is: 10811.

(Catalog of Federal Domestic Assistance Number 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E7-3086 Filed 2-22-07; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10787]

Missouri Disaster Number MO-00008

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Missouri (FEMA-1676-DR), dated January 15, 2007.

Incident: Severe Winter Storms and Flooding.

Incident Period: January 12, 2007 through January 22, 2007.

Effective Date: February 9, 2007.

Physical Loan Application Deadline Date: March 16, 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: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Missouri, dated 01/15/2007, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties:

Benton, Boone, Cedar, Texas.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008).

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E7-3087 Filed 2-22-07; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10812]

Washington Disaster # WA-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 Washington (FEMA-1682-DR), dated February 14, 2007.

Incident: Severe Winter Storms, Landslides, and Mudslides.

Incident Period: December 14, 2006 through December 15, 2006.

Effective Date: February 14, 2007.

Physical Loan Application Deadline Date: April 16, 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

02/14/2007, 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:

Chelan, Clallam, Clark, Grant, Grays Harbor, Island, King, Klickitat, Lewis, Mason, Pacific, Pend Oreille, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum.

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: 10812.

(Catalog of Federal Domestic Assistance Number 59008).

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E7-3088 Filed 2-22-07; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice 5699]

Bureau of Western Hemisphere Affairs; Office of Canadian Affairs; Interpretative Guidance on Non-Pipeline Elements of E.O. 13337, amending E.O. 11423

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Executive Order 11423, of August 16, 1968, as amended, authorizes the Secretary of State to issue Presidential permits for the construction of facilities crossing the international borders of the United States, including, but not limited to, bridges and tunnels connecting the United States with Canada or Mexico. Section 2(a) of Executive Order 13337, dated April 30, 2004, amended Executive Order 11423, *inter alia*, by authorizing the Secretary of State to issue Presidential permits for "border crossings for land transportation, including motor or rail vehicles, to or from a foreign country, whether or not in conjunction with the facilities" to which Executive Order 11423 previously applied. This new

language is found in section 1(a)(vi) of Executive Order 11423, as amended.

In seeking to provide guidance to the public concerning its exercise of this new permitting authority, the Department has determined, after giving the matter careful consideration, that the new "land border crossing" language of section 1(a)(vi) will apply to all new crossings of the international border as well as to all substantial modifications of existing crossings of the international border. The Department assembled an interagency working group, consisting of relevant State Department personnel and personnel from other interested Federal agencies, to prepare further guidance on application of this interpretation of section 1(a)(vi) in the future. Over the course of two years, this working group studied how to implement the new and amended Executive Orders in an efficient manner. DOS intends to review this guidance periodically with participants in the interagency working group, and may modify or amend it accordingly. The guidance document and annexes are quoted in full below, under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Mr. Alex Lee, Director, WHA/CAN, U.S. Department of State, Washington, DC 20520. (202) 647-2170.

SUPPLEMENTARY INFORMATION:

Department of State Interpretative Guidance on Non-Pipeline Elements of E.O. 13337, amending E.O. 11423

Background

Executive Order (E.O.) 11423 (August 16, 1968) specifies that the proper conduct of the foreign relations of the United States requires that executive permission be obtained for the construction and maintenance at the borders of the United States of facilities connecting the United States with a foreign country. By virtue of E.O. 11423, as amended by E.O. 13337 (April 30, 2004), the President has delegated to the U.S. Department of State (DOS) the authority to receive applications for, and to approve and issue, Presidential permits for the construction, connection, operation, or maintenance of certain facilities at the borders of the United States with Canada and Mexico. Pursuant to section 3(b) of E.O. 13337, subsection 2(b) of E.O. 11423 and DOS Notice of Interpretation (Public Notice 5149), 70 FR 45,748 (2005), DOS determined that this authority applied to all new border crossings¹ and to all

substantial modifications of existing border crossings of the international border.

Substantial modifications are defined as follows:

1. An expansion beyond the existing footprint² of a land port-of-entry (LPOE) inspection facility,³ including its grounds, approaches, and appurtenances, at an existing border crossing in such a way that the modification effectively constitutes a new piercing of the border;
2. a change in ownership of a border crossing that is not encompassed within or provided for under an applicable Presidential permit;
3. a permanent change in authorized conveyance (e.g., commercial traffic, passenger vehicles, pedestrians, etc.) not consistent with (a) What is stated in an applicable Presidential permit, or (b) current operations if a Presidential permit or other operating authority⁴ has not been established for the facility; or
4. any other modification that would render inaccurate the definition of covered U.S. facilities set forth in an applicable Presidential permit.

The following categories of border crossings are covered by this guidance:

- Bridges
- Tunnels
- Roadway crossings
- Rail crossings
- Bicycle crossings
- Pedestrian crossings
- Cross-border material/commodity conveyors
- Livestock crossings

Note, however, that activities covered by Congressional authorization and not dependent on executive permission under E.O. 11423 and E.O. 13337 are outside the scope of this guidance.

With the assistance of an interagency working group,⁵ DOS has prepared the following guidance to clarify the types of non-pipeline projects under E.O. 11423 and E.O. 13337 that require Presidential permits and to provide

conveyor belt, or an at-grade roadway, etc. (See the list in the main text below for categories of border crossings covered by this guidance.) Border crossings, generally, connect a United States Land Port of Entry inspection facility (see below) to that of Canada or Mexico.

² Footprint: the area encompassing the crossing and the LPOE inspection facility.

³ LPOE inspection facility: the federally-controlled compound (land, buildings, access roads, parking areas) at which travelers enter/exit the United States.

⁴ Operating Authority: the legal authority for establishing the border crossing (e.g., legislation, Presidential permit, etc.).

⁵ The interagency working group comprises representatives of the Departments of State, Homeland Security (DHS), and Transportation (DOT), as well as the General Services Administration (GSA).

guidelines for the preparation of applications for Presidential permits to facilitate an expeditious DOS response.

Presidential Permits: Purpose and Guiding Principles

It is the policy of the United States to work with Canada and Mexico to facilitate safe, fast, and efficient border transit, while ensuring U.S. national security. Within this context, E.O. 13337 was promulgated with the intent to "expedite reviews of permits" and "to provide a systematic method for the evaluation and permitting the construction and maintenance of certain border crossings for land transportation * * * while maintaining safety, public health and environmental protections." Implicit in DOS stewardship of the Presidential permit process is recognition that border crossings are, by definition, international in nature. Successful implementation of border-crossing projects requires good intra- and inter-governmental communications, and careful consideration of the foreign relations implications of a proposed project.

Taking into account input from appropriate federal agencies and other interested participants, DOS has the responsibility to determine whether a proposed border-crossing project is in the U.S. national interest. Within the context of appropriate border security, safety, health, and environmental requirements, DOS notes that it is generally in the U.S. national interest to facilitate the efficient movement of legitimate goods and travelers across U.S. borders.

DOS and other Federal agencies further recognize that a subset of important improvements and modifications to border crossings may not require Presidential permits, and that it is in the national interest not to impose unnecessary delays and burdens on the sponsors of such improvements.

Project Sponsor

A project sponsor is an entity that has ownership, jurisdiction, custody, or control of the U.S. portion of a border crossing. A Presidential permit will only be issued to such an entity. This may be a federal, state, or local government entity, or a private individual or group.

If at the time of application, a future transfer of ownership is anticipated and the identity of the future owner is known (e.g., from a local port authority to GSA), the applicant should notify DOS in its application of that anticipated change so that provision may be made when the Presidential permit is granted for the transfer of the Presidential permit to the future owner.

¹ Border crossing: the physical transportation facility that pierces the international boundary line. The crossing can be a bridge, tunnel, railroad,

Notification

A new border crossing or substantial modification to an existing border crossing must have a new or amended Presidential permit, as applicable. For purposes of determining whether a new or amended permit is required, DOS has identified three categories of projects based on the magnitude and complexity of the proposed change(s) at the border:

- Red (both DOS notification and new or amended Presidential permit required);
- Yellow (DOS notification required and a Presidential permit may be required); and
- Green (neither DOS notification nor Presidential permit required).

DOS should also be notified of changes to all facilities that comprise or feed proximately into the international border crossing (including LPOE inspection facilities or state or federal access or egress roadways) that reasonably could be expected to have a material effect on Canadian or Mexican government operations in their countries.

The Required Project Notification Information (see attached Exhibit A) will be used by the sponsor to notify DOS of either projects or modifications in the "Red" or "Yellow" categories.

A project sponsor may consult with DOS to determine a project's likely classification within these categories before submitting Required Project Notification Information to DOS. Indeed, DOS would encourage such advance consultations and, if there is a question regarding a project's color code status, the sponsor should consult with DOS as early as possible after it establishes project parameters and implementation plans. A description of the three categories follows below.

Red: This category covers all new border crossings and those proposed changes that make a substantial modification to an existing border crossing, including particularly, expansion beyond the existing footprint of an LPOE inspection facility in such a way that the modification effectively constitutes a new piercing of the border. The addition of lanes to an existing border crossing or the replacement of existing lanes with new lanes is not a substantial modification and falls under the yellow category. In all red category cases, a Presidential permit application must be submitted and approved before construction activities begin. In an emergency situation, the sponsor should contact DOS for case-specific guidance before taking any action. This would not, however, prevent the sponsor from performing or contracting for other

project due diligence activities as warranted and at its own risk (e.g., preparation of environmental documentation under the National Environmental Policy Act of 1969, as amended (NEPA); project design; other permit applications; etc.), while DOS is deciding whether to issue the Presidential permit.

A change in ownership of a border crossing or a permanent change in authorized conveyance if not consistent with the previously-issued Presidential permit, will require an amendment to the Presidential permit. When a Presidential permit or operating authority has not been established for a facility, a Presidential permit will be required if a permanent change in authorized conveyance is being sought that is at variance with the current operations.

A substantial modification also could be any modification that renders inaccurate the definition of covered U.S. facilities set forth in an applicable Presidential permit.

Yellow: Yellow category changes include modification of a border crossing that may have a material effect on Canadian or Mexican government operations in their respective country. If, following receipt of the Required Project Notification Information, DOS believes that a Presidential permit is required, or that additional information is required to make such a determination, DOS will respond in writing to the project sponsor within thirty (30) calendar days of receipt of the Required Project Notification Information. In the event that DOS does not approve or disapprove the proposed project within thirty (30) calendar days after confirmed receipt of the Required Project Notification Information, the project sponsor shall give a second written notice to DOS requesting approval. In the event DOS does not approve or disapprove the proposed project within 30 days after such second notice is given, the project sponsor may proceed on the basis that a Presidential permit is not required for the project.

Green: Green category changes are those that are not expected to have a material effect on Canadian or Mexican government operations in their respective country and are not substantial modifications to the border crossing. They include most routine changes at LPOE inspection facilities near the border. Examples include changes made to government offices, inspection equipment, or routing of people and/or vehicles within U.S. border operations.

An illustrative list of activities is attached as Exhibit B to provide

guidance to help determine under which category a proposed change falls.

NEPA Requirements

DOS will cooperate with other agencies to fulfill any applicable requirements under NEPA, 42 U.S.C. 4321 *et seq.*; implementing regulations issued by the Council on Environmental Quality, 40 CFR parts 1500–1508; and DOS implementing regulations, 22 CFR part 161. DOS and other involved federal agencies may have separate and distinct obligations under NEPA. Depending on the project, DOS may serve as the lead agency, a co-lead agency, or a cooperating agency on a project.

General

The guidance contained herein does not relieve the sponsor of the responsibility to inform DOS at the earliest opportunity of any change (policy or otherwise) at the border that could reasonably be expected to affect U.S. relations with Canada or Mexico. The sponsor should notify DOS promptly of all such planned changes, so that DOS will be in a position to facilitate expeditious resolution of any foreign policy issues that may arise in connection with proposed changes.

In furtherance of the proper conduct of the foreign relations of the United States, DOS reserves the right, notwithstanding this guidance, to take whatever steps it deems appropriate in a particular case in the exercise of its border-crossing oversight and coordination responsibilities. DOS intends to review this guidance periodically with participants in the interagency working group, and may modify or amend it accordingly. DOS welcome comments and suggestions from interested stakeholders and members of the public at any time.

Attachments

Exhibit A—Required Project Notification Information
Exhibit B—Project Categories

Exhibit A—U.S. Department of State Required Project Notification Information Regarding Proposed Non-Pipeline Border Crossing Projects

The information outlined in this notification, along with the project sponsor's recommended classification (Yellow—permit may be required—Department of State (DOS) notification required; Red—permit required), will be considered by DOS in determining whether a proposed non-pipeline border crossing project will require a Presidential permit. This information will be used, along with the guidelines established for implementation of E.O. 13337, amending E.O. 11423, to determine the substantiality of

any modification of an existing border crossing. DOS, however, reserves the right to require or request additional information necessary to the exercise of its border-crossing oversight and coordination responsibilities.

For applicable projects on the U.S.-Mexico border as well as those on the U.S.-Canada border, e-mail this form to WHABorder@state.gov. If e-mail is not feasible, mail to: U.S. Department of State, 2201 C St., NW., Washington, DC 20520 (Attn: WHA/MEX 4258 HST (for projects on the border with Mexico) or WHA/CAN 3917 HST (for projects on the border with Canada), as appropriate).

1. Project Sponsor (Include contact information.)
2. Project Name
3. Project Purpose/Justification
4. Project Coordination (Include a summary of existing and anticipated coordination efforts with federal, state, and/or local agencies, including contact information.)
5. Project Location (Include names of state and county; GPS coordinates, if readily available; maps showing regional location with adjacent land ports of entry, distance from international border, and whether the project is within the three-meter international boundary.)
6. Project Description (Include brief project summary describing scope of work and expected effect on existing border crossing, if applicable. This summary should include any change in the physical capacity, change of authorized conveyance (e.g., commercial to non-commercial), change of ownership, and available drawings.)
7. Project Milestones/Schedule (Include anticipated design/construction dates at a minimum.)

Applicant's Suggested Categorization of the Proposed Project: Please select either "Red" or "Yellow" based upon review of the DOS policy for implementation of E.O. 13337, considering project information as described above. Applicant may provide additional supporting documentation along with this assessment form.

- Red—DOS notification required and a new or amended Presidential permit is required.
- Yellow—DOS notification required and a new or amended Presidential permit may be required.

Exhibit B—Project Categories

RED—DOS Notification and a New or Amended Presidential Permit Required

1. All new border crossings.
2. An expansion beyond the existing footprint of an LPOE inspection facility, including its grounds, approaches and appurtenances, at an existing border crossing in such a way that the modification effectively constitutes a new piercing of the border; provided, however, that this does not include the addition of lanes to an existing border crossing, or the replacement of existing lanes with new lanes (see "YELLOW," below).
3. A change in ownership of a border crossing, when the existing permit does not

encompass and/or provide for transfer of the facility to the new owner.

4. A permanent change in the operation of a border crossing that is not consistent with the terms of the existing Presidential permit (e.g., a permanent change in authorized conveyance). When a Presidential permit or operating authority has not been established for a facility, a Presidential permit will be required if a permanent change in authorized conveyance is being sought that is at variance with the current operations.

5. Any other modification that would render inaccurate the definition of covered U.S. facilities set forth in an applicable Presidential permit.

YELLOW—DOS Notification Required and a New or Amended Presidential Permit May Be Required

Changes to Border Crossing Capacity/Traffic Flow

1. A change in the physical capacity of the border crossing, especially permanent modifications to the border crossing itself (e.g., modification of a bridge, road access, or tunnel; expansion or reduction of traffic lanes).

2. A change in the physical capacity of an LPOE inspection facility, permanent expansion or reduction in the number of entry or exit booths or traffic lanes or other change that has a permanent effect on cross-border traffic flow (including vehicular wait times at an LPOE inspection facility).

3. A change within the three-meter boundary that has a permanent effect on traffic flow but is of a type not addressed explicitly in an existing Presidential permit (e.g., Nexus/SENTRI/FAST lanes).

4. An expansion of roadway infrastructure, or other form of increased traffic capacity within the three-meter boundary but beyond that portion of the existing right-of-way or footprint of an LPOE inspection facility.

5. A change in cross-border traffic caused by construction outside of the three-meter boundary that can be expected to have a material effect on Canadian or Mexican government operations in their respective country.

6. Major construction work having a short-term effect on traffic flow, including closure of traffic lanes for periods greater than one month, or closure of an entire LPOE inspection facility during regular operating hours for any amount of time.

Changes in Border Crossing Operation

7. A permanent change in authorized conveyance, if within the scope of the existing permit (e.g., adding pedestrian traffic or motor vehicle use).

Changes in Maintenance Responsibility

8. A change in the nationality of the party, the type of corporate entity, or the ownership of the entity operating the border-crossing facility.

9. A change in the party asserting operational responsibility or custodial control over a border crossing, if other than the Presidential permit holder.

GREEN—Neither DOS Notification nor Presidential Permit Required

1. Maintenance or repair of an existing bridge, roadway, or tunnel, (other than as described in "Yellow" category), including temporary lane closures (of less than a month).

2. An interior change (renovation and/or repair) to an existing LPOE inspection facility, including any routine repair, alteration, or cyclical maintenance that, individually or collectively, is not expected to have an effect on the border crossing.

3. An exterior change within the existing footprint of an LPOE inspection facility (buildings or paving).

4. An improvement to an exterior enclosure (e.g., painting, new windows, or re-roofing) of an existing LPOE inspection facility.

5. A systems change (e.g., HVAC, electrical, or fire protection) to an existing LPOE inspection facility.

6. A change in tenant agency space assignments at an existing LPOE inspection facility.

7. A change to a border crossing or an existing LPOE inspection facility that is made at the request or direction of DOS.

8. A change in GSA or DHS operational protocols or procedures that does not have a material effect on the border crossing.

9. Placement of advanced technology (e.g., radiation portal monitors) within an existing LPOE inspection facility, or approaches located within the existing footprint of the right-of-way or an existing LPOE inspection facility.

This determination will be published in the **Federal Register**.

Dated: February 5, 2007.

R. Nicholas Burns,

Under Secretary for Political Affairs,
Department of State.

[FR Doc. E7-3123 Filed 2-22-07; 8:45 am]

BILLING CODE 4710-29-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Douglas Municipal Airport, Douglas, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(c), notice is being given that the FAA is considering a request from the City of Douglas to waive the requirement that approximately .76 acres of surplus property, located at the Douglas Municipal Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before March 26, 2007.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: Chuck Garrison, Program Manager, 1701 Columbia Ave., Suite 2-260, Atlanta, GA 30337-2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Tony L. Paul, Mayor, City of Douglas at the following address: City of Douglas, Post Office Box 470, Douglas, GA 31534.

FOR FURTHER INFORMATION CONTACT:

Chuck Garrison, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Suite 2-260, Atlanta, GA 30337-2747, (404) 305-7145. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the City of Douglas to release approximately .76 acres of surplus property at the Douglas Municipal Airport. The property consists of one parcel located adjacent to and west of U.S. Highway #441 right of way, and approximately 1250 feet south of Georgia State Road #353 right of way. This property is currently shown on the approved Airport Layout Plan as aeronautical use land; however the property is currently not being used for aeronautical purposes and the proposed use of this property is compatible with airport operations. The City will ultimately sell the property to the Douglas Coffee County Industrial Authority who will participate in putting a purchase package together to sell both the land owned by the city and the structure owned by an individual, with proceeds of the sale providing funding for future airport development.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Douglas Municipal Airport.

Dated: Issued in Atlanta, Georgia on February 5, 2007.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 07-807 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance Rickenbacker International Airport, Columbus, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-aeronautical use and to authorize the release of 68.277 acres of vacant airport property for the proposed development bulk warehouse/distribution facilities as a component of the Rickenbacker Global Logistics Park. The land was acquired by the Rickenbacker Port authority through two Quitclaim Deeds dated March 30, 1984 from the Administrator of General Services for the United States of America and May 11, 1999 from the United States of America, acting by and through the Secretary of the Air Force. There are no impacts to the airport by allowing the airport to dispose of the property. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The CRAA will receive \$1,468,000 for the parcel.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before March 26, 2007.

ADDRESSES: Written comments on the Sponsor's request must be delivered or mailed to: Mary W. Jagiello, Program Manager, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, MI 48174.

FOR FURTHER INFORMATION CONTACT:

Mary W. Jagiello, Program Manager, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO-608, 11677 South Wayne Road, suite 107, Romulus, Michigan 48174. Telephone Number (734-229-2956)/fax Number (734-229-2950). Documents reflecting this FAA action may be reviewed at this same location or at Rickenbacker International Airport, Columbus, Ohio.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property

located in the State of Ohio, County of Pickaway, Townships of Harrison and Madison, lying in Section 13, Township 3, Range 22 and Section 18, Township 10, Range 21, Congress Lands East of the Scioto, and being on, over and across the 2995.065 acre tract of land, and described as follows:

Beginning at a common corner of said 2995.065 acre tract and the 5 acre tract conveyed to Columbus Municipal Airport Authority by deed of record in Official Record 572, Page 615, and an angle point in the centerline of Ashville Pike (County Road 28);

Thence North 86°35'31" West, a distance of 32.42 feet, with the line common to said 2995.065 and 5 acre tracts, and the centerline of Ashville Road, to a point marking the southeasterly corner of an 85.850 acre land release area prepared by R.D. Zande & Associates;

Thence leaving said centerline, across said 2995.065 acre tract and with the easterly line of said 85.850 acre area the following courses and distances:

North 03°13'30" East, a distance of 82.93 feet, to a point of curvature;

Thence with the arc of a curve to the left, having a central angle of 80°04'07", a radius of 35.00 feet, an arc length of 48.91 feet and a chord that bears North 36°48'33", West, a chord distance of 45.03 feet to a point of tangency;

North 76°50'37", West, a distance of 68.23 feet, to a point;

Thence North 44°20'31", East, a distance of 205.23 feet, leaving the boundary of said 85.850 acre area, continuing across said 2995.065 acre tract to a point in the westerly line of a Runway Protection Zone;

Thence South 44°25'27", East, a distance of 281.00 feet, with said westerly line of said Runway Protection Zone, continuing across said 2995.065 acre tract, to an angle point in the boundary of said Runway Protection Zone;

Thence North 37°02'42", East, a distance of 996.67 feet, with the southerly line of said Runway Protection Zone, continuing across said 2995.065 acre tract, to a point.

Thence South 86°24'00", East, a distance of 3456.65 feet, leaving said Runway Protection Zone boundary, continuing across said 2995.065 acre tract, to a point;

Thence across said 2995.065 acre tract the following courses and distances:

South 53°46'55", East, a distance of 821.06 feet, to a point;

South 39°42'45", East, a distance of 666.60 feet, to a common corner of said 2995.065 acre tract and the 201.7757 acre tract conveyed to The Landings at

Rickenbacker by deed of record in Deed Volume 263, Page 721;

Thence North 86°24'00", West, a distance of 1564.12 feet, across said 2995.065 acre tract, to a point on the east line of the 8.655 acre land release area prepared by MS Consultants, said point also being in the east line of Harrison Township and the West line of Madison Township;

Thence North 03°47'28", East, a distance of 55.94 feet, with the boundary of said 8.655 acre land release area and said township line, to a point;

Thence North 86°35'35", West, a distance of 2693.18 feet, leaving said township line, continuing with the boundary of said 8.655 acre land release area, to a point;

Thence South 03°43'38", West, a distance of 46.61 feet, with the boundary of said 8.655 acre land release area, to the POINT OF BEGINNING, containing 68.277 acres, more or less.

Issued in Romulus, Michigan on February 7, 2007.

Irene R. Porter,

Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 07-803 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Waterloo Regional Airport, Waterloo, IA

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

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land at the Waterloo Regional Airport under the provisions of section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before March 26, 2007.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, ACE-600, 901 Locust, Kansas City, Missouri 64106-2325.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bradley Hagan, Director of Aviation, Waterloo Regional Airport, 2790 Livingston Lane, Waterloo Iowa 50703.

FOR FURTHER INFORMATION CONTACT: Nicoletta S. Oliver, Airports Compliance Specialist, Federal Aviation Administration, Central Region, Airports Division, ACE-610C, 901 Locust, Kansas City, Missouri 64106-2325.

The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Waterloo Regional Airport under the provisions of AIR21.

On February 6, 2007, the FAA determined that the request to release property at the Waterloo Regional Airport submitted by the City of Waterloo met the procedural requirements of the Federal Aviation Administration.

The FAA will approve or disapprove the request, in whole or in part, no later than May 31, 2007.

The following is a brief overview of the request.

The Waterloo Regional Airport requests the release of approximately 311 acres of airport property. The property is currently being farmed and not used for aeronautical purposes. The release of the property will provide an opportunity for the property to be developed for commercial or light industrial uses.

The Federal share of the proceeds obtained from the sale of Parcel A, containing approximately 42.12 acres, will be used for future FAA-Airport Improvement Program (AIP) eligible projects at the Waterloo Regional Airport and the proceeds obtained from the sale of the remaining property will be used to repay bonds that were sold for redevelopment of the Terminal Building.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may inspect the request, notice and other documents germane to the request in person at the Waterloo Regional Airport.

Issued in Kansas City, Missouri, on February 14, 2007.

George A. Hendon,

Manager, Airports Division, Central Region.

[FR Doc. 07-802 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Austin-Bergstrom International Airport, Austin, TX

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of Austin, Texas for Austin-Bergstrom International Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act) and 14 CFR part 150 are in compliance with applicable requirements.

DATES: Effective Date: The effective date of the FAA's determination on the noise exposure maps is February 15, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Blackford, Federal Aviation Administration, 2601 Meacham Blvd., Fort Worth, Texas 76137-0650, (817) 222-5607.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Austin-Bergstrom International Airport are in compliance with applicable requirements of Part 150, effective February 15, 2007. Under 49 U.S.C. section 47503 of the Aviation Safety and Noise Abatement Act (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and accompanying documentation

submitted by the city of Austin. The documentation that constitutes the "noise exposure maps" as defined in section 150.7 of Part 150 includes Tables 6.2 and 6.3, and map sets A and B (scale: 1 inch = 2,000 feet). Map set A includes four maps: the 2007 Noise Exposure Map and the 2007 North Flow, South Flow and Touch and Go Flight Track maps. Map set B also includes four maps: the 2012 Noise Exposure Map and the 2012 North Flow, South Flow and Touch and Go Flight Track maps. The FAA has determined that these noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on February 15, 2007.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 or FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the full noise exposure map documentation and of the FAA's evaluation of the maps are available for examination at the following locations: Federal Aviation Administration, 2601

Meacham Boulevard, Fort Worth, Texas; Mr. Jim Smith, Executive Director, City of Austin/Department of Aviation, 3600 Presidential Blvd., Suite 411, Austin, Texas 78719. Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Fort Worth, Texas, February 15, 2007.

Cameron Bryan,

Acting Manager, Airports Division.

[FR Doc. 07-806 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2007-27272]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ADMIRAL II.

SUMMARY: As authorized by Public Law 105-383 and Public Law 107-295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-built requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2007-27272 at <http://dms.dot.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105-383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before March 26, 2007.

ADDRESSES: Comments should refer to docket number MARAD-2007-27272. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR-830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ADMIRAL II is: *Intended Use:* "coastwise passenger service."

Geographic Region: Florida—coastwise passenger service.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Dated: February 12, 2007.

By order of the Maritime Administrator.

Daron T. Threet,

Secretary, Maritime Administration

[FR Doc. E7-3079 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2007-27273]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ALTAIR.

SUMMARY: As authorized by Public Law 105-383 and Public Law 107-295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2007-27273 at <http://dms.dot.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105-383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before March 26, 2007.

ADDRESSES: Comments should refer to docket number MARAD-2007-27273. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR-830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-5979.

SUPPLEMENTARY INFORMATION: As described by the applicant, the intended service of the vessel ALTAIR is:

Intended Use: "Pleasure charter, 2, 4, 6 hour harbor cruises and some overnights."

Geographic Region: Great Lakes & coastwise.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Dated: February 12, 2007.

By order of the Maritime Administrator.

Daron T. Threet,

Secretary, Maritime Administration.

[FR Doc. E7-3080 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2007-27274]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel EXPEDITION.

SUMMARY: As authorized by Public Law 105-383 and Public Law 107-295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2007-27274 at <http://dms.dot.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105-383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the

comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before March 26, 2007.

ADDRESSES: Comments should refer to docket number MARAD-2007-27274. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, D.C. 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR-830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel EXPEDITION is:

Intended Use: "Sport fishing expeditions with up to twelve passengers."

Geographic Region: North Carolina, South Carolina, Georgia coasts.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Dated: February 12, 2007.

By order of the Maritime Administrator.

Daron T. Threet,

Secretary, Maritime Administration.

[FR Doc. E7-3081 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION**Maritime Administration****[Docket No. MARAD-2007-27271]****Requested Administrative Waiver of the Coastwise Trade Laws****AGENCY:** Maritime Administration, Department of Transportation.**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel PELICAN.

SUMMARY: As authorized by Public Law 105-383 and Public Law 107-295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2007-27271 at <http://dms.dot.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105-383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before March 26, 2007.

ADDRESSES: Comments should refer to docket number MARAD-2007-27271. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket

is available on the World Wide Web at <http://dms.dot.gov>.**FOR FURTHER INFORMATION CONTACT:**

Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR-830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel PELICAN is:*Intended Use:* "charter."*Geographic Region:* Chesapeake Bay.**Privacy Act**

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Dated: February 12, 2007.

By order of the Maritime Administrator.

Daron T. Threet,*Secretary, Maritime Administration.*

[FR Doc. E7-3062 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-81-P**DEPARTMENT OF TRANSPORTATION****Maritime Administration****[Docket No. MARAD-2007-27276]****Requested Administrative Waiver of the Coastwise Trade Laws****AGENCY:** Maritime Administration, Department of Transportation.**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel SORTE.

SUMMARY: As authorized by Public Law 105-383 and Public Law 107-295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2007-27276 at <http://dms.dot.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in

accordance with Public Law 105-383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before March 26, 2007.

ADDRESSES: Comments should refer to docket number MARAD-2007-27276. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR-830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SORTE is:*Intended Use:* "Sailing charters, tours and memorials at sea (ash scattering)."*Geographic Region:* San Francisco Bay, CA.**Privacy Act**

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Dated: February 12, 2007.

By order of the Maritime Administrator.

Daron T. Threet,

Secretary, Maritime Administration.

[FR Doc. E7-3078 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2007-27275]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel WHIRLWIND.

SUMMARY: As authorized by Public Law 105-383 and Public Law 107-295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2007-27275 at <http://dms.dot.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105-383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before March 26, 2007.

ADDRESSES: Comments should refer to docket number MARAD-2007-27275. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments

will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR-830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel WHIRLWIND is:

Intended Use: "Instruction for basic sailing."

Geographic region: Biscayne Bay, Florida

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Dated: February 12, 2007.

By order of the Maritime Administrator.

Daron T. Threet,

Secretary, Maritime Administration.

[FR Doc. E7-3082 Filed 2-22-07; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Notice and Request for Comments

AGENCY: Surface Transportation Board, DOT.

ACTION: 30-day notice of intent to seek extension of approval: Waybill Compliance Survey.

SUMMARY: The Surface Transportation Board (Board), as part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* (PRA), has submitted a request to the Office of Management and Budget (OMB) for an extension of approval for the currently approved collection of the Waybill Compliance Survey. The Board previously published a notice about these collections in the **Federal Register** on December 18, 2006, at 71 FR 75811.

That notice allowed for a 60-day public review and comment period. No comments were received. The Waybill Compliance Survey is described in detail below. Comments may now be submitted to OMB concerning (1) the accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether this collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility.

Description of Collection

Title: Waybill Compliance Survey.

OMB Control Number: 2140-0010.

STB Form Number: None.

Type of Review: Extension without change.

Respondents: Regulated railroads that did not submit carload waybill sample information to the STB in the previous year.

Number of Respondents: 120.

Estimated Time Per Response: .5 hours.

Frequency: Annually.

Total Burden Hours (annually including all respondents): 60.

Total "Non-hour Burden" Cost: No "non-hour cost" burdens associated with this collection have been identified.

Needs and Uses: The ICC Termination Act of 1995, Public Law 104-88, 109 Stat. 803 (1995), which took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred to the STB the responsibility for the economic regulation of common carrier rail transportation, including the collection and administration of the Carload Waybill Sample. Under 49 CFR part 1244, a railroad terminating 4500 or more carloads, or terminating at least 5% of the total revenue carloads that terminate in a particular state, in any of the three preceding years, is required to file carload waybill sample information (Waybill Sample) for all line-haul revenue waybills terminating on its lines. The information in the Waybill Sample is used to monitor the rail industry in general, and the nature and quantities of goods being shipped by rail in particular. The Board needs to collect information in the Waybill Compliance Survey—information on carloads of traffic terminated each year by U.S. railroads—in order to determine which

railroads are required to file the Waybill Sample. In addition, information collected in the Waybill Compliance Survey, on a voluntary basis, about the total operating revenue of each railroad helps to determine whether respondents are subject to other statutory or regulatory requirements. Accurate determinations regarding the size of a railroad help the Board minimize the reporting burden for smaller railroads. The Board has authority to collect this information under 49 U.S.C. 11144 and 11145 and under 49 CFR 1244.2.

DATES: Comments on this information collection may be submitted by March 26, 2007.

ADDRESSES: Written comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Surface Transportation Board Desk Officer, Room 10235, 725 17th Street, NW., Washington, DC 20503, or to *Alexander_T._Hunt@omb.eop.gov*. When submitting comments, please refer to "Waybill Compliance Survey, OMB control number 2140-0010."

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THE STB FORM, CONTACT: Mac Frampton at (202) 565-1541 or at *hugh.frampton@stb.dot.gov*. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: February 23, 2007.

Vernon A. Williams,
Secretary.

[FR Doc. E7-3148 Filed 2-22-07; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-1001X]

Chillicothe-Brunswick Rail Maintenance Authority—Discontinuance Exemption—in Livingston, Linn, and Chariton Counties, MO

Chillicothe-Brunswick Rail Maintenance Authority (CBRA) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuances of Services* to discontinue service over an approximately 37.44-mile line of railroad between milepost 226.0, in Chillicothe, and milepost 188.56, near Brunswick, in Livingston, Linn, and Chariton Counties, MO.¹ The line traverses United States Postal Service Zip Codes 64601, 64681, 65236, 65286, 64643, and 64659.

CBRA has certified that: (1) No traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 27, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an

¹ Motive Rail, Inc. d/b/a Missouri North Central Railroad (Motive Rail) also has operating authority for a portion of this line. Motive Rail has filed a notice of exemption to discontinue service in *Motive Rail, Inc. d/b/a Missouri North Central Railroad—Discontinuance Exemption—in Livingston, Linn and Chariton Counties, MO*, STB Docket No. AB-993X.

OFA under 49 CFR 1152.27(c)(2)² must be filed by March 5, 2007.³ Petitions to reopen must be filed by March 15, 2007, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. Filings made after March 5, 2007, should be sent to the Board's new address: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to CBRA's representative: Charles H. Montange, 426 NW 162d Street, Seattle, WA 98177.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: February 16, 2007.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. E7-3179 Filed 2-22-07; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-993X]

Motive Rail, Inc. d/b/a Missouri North Central Railroad—Discontinuance Exemption—in Livingston, Linn, and Chariton Counties, MO

Motive Rail, Inc. d/b/a Missouri North Central Railroad (Motive Rail) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuances of Services* to discontinue service over an approximately 29.55-mile line of railroad between milepost 218.25, near Norville, and milepost 188.7 near Kelly, in Livingston, Linn, and Chariton Counties, MO.¹ The line traverses United States Postal Service Zip Codes

² Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).

³ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

¹ Chillicothe-Brunswick Rail Maintenance Authority (CBRA) also has operating authority for a portion of this line. CBRA has filed a notice of exemption to discontinue service in *Chillicothe-Brunswick Rail Maintenance Authority—Discontinuance of Exemption—in Livingston, Linn and Chariton Counties, MO*, STB Docket No. AB-1001X.

64601, 64681, 65236, 65286, 64643, and 64659.

Motive Rail has certified that: (1) No traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 27, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2)² must be filed by March 5, 2007.³ Petitions to reopen must be filed by March 15, 2007, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. Filings made after March 5, 2007, should be sent to the Board's new address: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to Motive Rail's

² Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).

³ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

representative: Charles H. Montange, 426 NW 162d Street, Seattle, WA 98177.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: February 16, 2007.
By the Board, David M. Konschnik, Director,
Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. E7-3146 Filed 2-22-07; 8:45 am]

BILLING CODE 4915-01-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; Republication

AGENCY: Department of Veterans Affairs.
ACTION: Notice; republication.

SUMMARY: The Department of Veterans (VA) is republishing this notice due to an administrative error in the published version. This notice replaces the notice that was published February 15, 2007 at 72 FR 7513.

Public Law 104-275 was enacted on October 9, 1996. It allows 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 and paying the allowance, and the amount of the allowance payable for qualifying interments that occur during calendar year 2007.

FOR FURTHER INFORMATION CONTACT: Carl Lockamy, Budget Operations and Field Support (41B1C), National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Telephone: 202-273-5162 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 2306(e)(3) and (4) and Public Law 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 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. E7-3136 Filed 2-22-07; 8:45 am]

BILLING CODE 8320-01-P



Federal Register

**Friday,
February 23, 2007**

Part II

The President

**Proclamation 8106—275th Anniversary of
the Birth of George Washington**

Presidential Documents

Title 3—

Proclamation 8106 of February 16, 2007**The President****275th Anniversary of the Birth of George Washington****By the President of the United States of America****A Proclamation**

Two hundred seventy-five years after the birth of George Washington, we honor the life and legacy of a surveyor from Virginia who became Commander of the Continental Army, a major force at the Constitutional Convention, and the first President of the United States of America.

Remembered by the Congress as “first in war, first in peace, and first in the hearts of his countrymen,” George Washington dedicated his life to the success of America. During the Revolutionary War, Washington’s small band of hungry soldiers faced the professional army of a great empire, and his unshakable vision for a new democracy proved a powerful inspiration to his troops. Knowing that the outcome of their struggle would determine “the destiny of unborn Millions,” Washington led his often ragged forces beyond incredible hardships into battle and on to victory with strength, steadfastness, and a quiet confidence.

The triumphant General treasured his brief time at home, but his devotion to duty and belief in the promise of a more perfect Union lured Washington from Mount Vernon. He presided over the Constitutional Convention with wisdom, diplomacy, and humility and helped form the working model of our democracy. When the Constitution was ratified, America again turned to a beloved and proven leader, electing George Washington as the first President of the United States.

As we celebrate the life of George Washington and his contributions to the American experiment, we can also take pride in our stewardship of the Republic he forged. Today, he would see in America the world’s foremost champion of liberty—a Nation that stands for freedom for all, a Nation that stands with democratic reformers, and a Nation that stands up to tyranny and terror. On his 275th birthday, George Washington would see an America fulfilling the promise of her Founders, honoring the durable wisdom of our Constitution, and moving forward in the world with confidence, compassion, and strength.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim February 22, 2007, as the 275th Anniversary of the Birth of George Washington. I encourage all Americans to join me in honoring the Father of our Country with appropriate civic and service programs and activities in remembrance of George Washington and with gratitude for all he gave for his country.

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

A handwritten signature in black ink, appearing to be "George W. Bush", written in a cursive style.

[FR Doc. 07-868

Filed 2-22-07; 9:32 am]

Billing code 3195-01-P

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Vol. 72, No. 36

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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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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 "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at <http://www.archives.gov/federal-register/laws.html>.

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H.R. 434/P.L. 110-4

To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through July 31, 2007, and for other purposes. (Feb. 15, 2007; 121 Stat. 7; 1 page)

H.J. Res. 20/P.L. 110-5

Making further continuing appropriations for the fiscal year 2007, and for other purposes. (Feb. 15, 2007; 121 Stat. 8; 53 pages)

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